



Employment and
Immigration Canada

Emploi et
Immigration Canada

Goveran
Publicat

CAI
MI
-I55

3 1761 11766754 3



IMMIGRATION MANUAL

BACKLOG CLEARANCE PROGRAM

ÉGALEMENT DISPONIBLE EN FRANÇAIS SOUS LE TITRE "PROGRAMME D'ÉLIMINATION DE L'ARRIÉRÉ."

Canada

CAI
MI
I55



Employment and
Immigration Canada

Emploi et
Immigration Canada

IMMIGRATION MANUAL

BACKLOG CLEARANCE PROGRAM

ÉGALEMENT DISPONIBLE EN FRANÇAIS SOUS LE TITRE "PROGRAMME D'ÉLIMINATION DE L'ARRIÉRE."

Canada

© Minister of Supply and Services Canada 1990

Available in Canada through

Associated Bookstores
and other booksellers

or by mail from

Canadian Government Publishing Centre
Supply and Services Canada
Ottawa, Canada K1A 0S9

Catalogue No. MP22-12-1990E





IMMIGRATION MANUAL - BACKLOG CLEARANCE PROGRAM

TRANSMITTAL REGISTER								
No	INSERTED		No	INSERTED		No	INSERTED	
	DATE	INITIAL		DATE	INITIAL		DATE	INITIAL
1			18			35		
2			19			36		
3			20			37		
4			21			38		
5			22			39		
6			23			40		
7			24			41		
8			25			42		
9			26			43		
10			27			44		
11			28			45		
12			29			46		
13			30			47		
14			31			48		
15			32			49		
16			33			50		
17			34			51		



IMMIGRATION MANUAL - BACKLOG CLEARANCE PROGRAM

TRANSMITTAL REGISTER

No	INSERTED		No	INSERTED		No	INSERTED	
	DATE	INITIAL		DATE	INITIAL		DATE	INITIAL
52			69			86		
53			70			87		
54			71			88		
55			72			89		
56			73			90		
57			74			91		
58			75			92		
59			76			93		
60			77			94		
61			78			95		
62			79			96		
63			80			97		
64			81			98		
65			82			99		
66			83			100		
67			84			101		
68			85			102		

Backlog Clearance

Procedures Manual

April 1990



Digitized by the Internet Archive
in 2023 with funding from
University of Toronto

<https://archive.org/details/31761117667543>

Table of Contents

	Page #
Table of Contents	i
List of Appendices.....	viii
List of Detailed Flowcharts.....	x
Index.....	xii
A note on the format of this manual	xvii
Definitions.....	xviii
List of Abbreviations	xix
 Overview Chapter	 1
The purpose of the new legislation.....	2
How the new legislation addresses the backlog of refugee claims.....	3
Overview of the Backlog Clearance system.....	4
The Refugee Claimants Backlog Procedures.....	5
What agencies are involved in the Backlog Clearance system?.....	6
Role of the officials involved in the Backlog Clearance system.....	7
Reporting relationships--EIC National Headquarters and IRB	8
Organization chart for National Headquarters	9
Organization chart--Enforcement Branch, NHQ.....	10
Responsibilities--Enforcement: Backlog Clearance.....	11
Responsibilities of the other parts of Enforcement Branch, NHQ	12
Computerized Operational Support System (COSS)	13
Summary of basic categories of persons claiming refugee status.....	14
Priorities for the order in which cases are handled	15
What happens in each Stage?	16
How to read the summary diagrams for Stage 2	17
Group 1--Found Credible by the RBRU	18
Summary diagram: Group 1--Found Credible by the RBRU.....	19
Group 1--Screened Non-Credible by the RBRU	20
Summary diagram: Group 1--Screened non-credible by RBRU.....	21
Group 2.....	22
Summary diagram: Group 2.....	23
Group 3.....	24
Summary diagram: Group 3.....	25
Group 4.....	26

Page

1	Introduction
2	1.1 Purpose of the report
3	1.2 Scope of the report
4	1.3 Limitations of the report
5	2. Background
6	2.1 Overview of the project
7	2.2 Objectives of the project
8	2.3 Key stakeholders
9	2.4 Project organization
10	3. Methodology
11	3.1 Research methods
12	3.2 Data collection
13	3.3 Data analysis
14	3.4 Validation
15	4. Results
16	4.1 Findings
17	4.2 Discussion
18	4.3 Conclusions
19	5. Recommendations
20	5.1 Short-term actions
21	5.2 Long-term actions
22	6. References
23	7. Appendix
24	7.1 Glossary
25	7.2 Acronyms
26	7.3 Bibliography

Table of Contents (continued)

	Page #
Summary diagram: Group 4.....	27
Can backlog members or their dependants study in Canada?	28
Can backlog members or their dependants work in Canada?	29
Fees associated with the Backlog Clearance system	30
Stage 1--Initiating the process	34
Introduction to this chapter	35
Overview of Stage 1--Initiating the process.....	36
How the files are categorized.....	37
How are the files handled in the backlog clearance system?.....	38
What happens in Stage 1?.....	39
Situations in which a person is ineligible for processing under the Transitional Provisions (ineligible for a hearing).....	40
How joint claims are handled.....	41
What should be added to the files during Stage 1?.....	42
Summary of the possible findings in Stage 1, and what to do next	43
Flowchart for Stage 1--Initiating the Process	47
A1--Credible Basis Form--Positive.....	48
A2--Credible Basis Form--Negative	49
Stage 2--Deciding which claimants to accept.....	50
Overview of Stage 2--Deciding which claimants to accept	51
Examples--Variations in the way factors are assessed in Stage 2.....	52
How this chapter is organized.....	53
What is the first step in Stage 2?	54
Initial Humanitarian and Compassionate Review	55
Who gets an initial Humanitarian and Compassionate review?.....	57
Administrative procedures for an initial H and C review.....	58
Guidelines for the initial H and C review.....	59
Guidelines	60
How to process a positive initial H&C decision.....	61
How to process a negative initial H and C decision.....	62
Forms used for the initial H and C review	63
What to do when a letter is returned "address unknown"	64

Table of Contents (continued)

Page

Initial Humanitarian and Compassionate Review (continued)

Procedures for handling 'no-show' for an H&C interview	65
After a negative initial H and C review: The next major step	66
After a positive initial H and C review: The next major step	67
Flowchart for Initial H and C review--Group 1, Credible and failed statutory requirements	71
Flowchart for Initial H and C review--Group 1 found Credible by RBRU, not eligible to apply for landing under RCDC Regulations	72
Flowchart for Initial H and C review--Groups 2-4, and Group 1, screened Non-Credible	73
B1: Call-in Notice - Humanitarian and Compassionate Review (General)	74
B2: Voluntary Departure Details	75
B3: Call-in Notice - Humanitarian and Compassionate Review (IC 1.22(1)(B) countries)	76
B4 - Humanitarian and Compassionate Summary form	77
B5: Letter of Refusal - H&C Negative (IC 1.22(1)(B) countries)	78
B6: Letter of Refusal - H&C - Group 4 (IC 1.22(1)(B) countries)	79
B7: Letter of Refusal - H&C Negative (Group 1 found credible at RBRU, failed statutory requirements)	80
B8: Acknowledgement of Right to Counsel	81
B9: COSS Data Input Form	82

Voluntary Departure Counselling	88
Who receives counselling for the voluntary departure option?	89
How to counsel persons concerning the voluntary departure option	90
What does the officer do after the voluntary departure counselling?	91
Flowchart for Voluntary Departure Counselling	95
C1: Letter of Refusal - H&C Negative (General)	96
C2: Letter of Refusal - H&C - Group 4 (General)	97
C3: Acknowledgement of Right to Counsel	98

Panel hearing	102
Who gets a panel hearing in Stage 2?	103
How the officer prepares for a panel hearing	104
How to extend a Minister's permit	105

Table of Contents (continued)

	Page #
Procedures for handling 'no-show' at a panel hearing or inquiry	106
What has been added to the file at this point?	107
What happens after the panel hearing?	108
Flowcharts for Panel Hearing--Groups 1 and 3	112
Flowcharts for Panel Hearing--Group 2	113
D1: Call -in Notice - Panel Hearing/Inquiry Resumption.....	114
Eligibility to apply for landing under RCDC Regulations.....	118
Assessing eligibility to apply for landing: Introduction.....	119
Who should be assessed for eligibility to apply for landing under the RCDC Regulations?	120
Persons not eligible to apply for landing under RCDC Regulations.....	121
What to do next, when a person is eligible to apply for landing under the RCDC Regulations	122
What to do next, when a person is ineligible to apply for landing under the RCDC Regulations	123
Flowchart--Assessing eligibility to apply for landing under RCDC Regulations-- Group 1 credible at RBRU.....	127
Flowchart--Assessing eligibility to apply for landing under RCDC Regulations-- Groups 2, 3, 4	128
E1: Approval Letter - Credible Basis - Transcript Cases.....	129
E2: Approval Letter - Oral Hearing for Credible Basis	130
E3: Letter of Refusal - Credible Basis - Ineligible to apply	131
Assessing Statutory Requirements.....	135
Assessing statutory requirements: Overview	136
Preparing to assess statutory requirements for positive H&C cases	137
Preparing to assess statutory requirements for cases which are eligible to apply for landing under the RCDC Regulations.....	138
How to decide whether a person meets statutory requirements	139
What to do when the person meets statutory requirements.....	140
What to do next, when the person fails statutory requirements.....	141
What to do when the person has a positive final H and C and fails statutory requirements	142
Flowchart for Assessing Statutory Requirements--Group 1	146
Flowchart for Assessing Statutory Requirements--Group 1 (continued)	147

Table of Contents (continued)

Page

Assessing Statutory Requirements (continued)

Flowchart for Assessing Statutory Requirements--Groups 2, 3, 4	148
F1: Call-in Notice - H &C Review (Group 1, credible at RBRU, failed statutory requirements).....	149
F2: Letter of Refusal.....	150
F3: Letter of Refusal - H&C, failed statutory requirements.....	151
F4: Letter of Refusal - Credible/Failed Statutory Requirements (Group 4).....	152
F5: Approval Letter - Humanitarian and Compassionate Grounds.....	153
F6: Letter of Refusal - Group 1: H&C, failed statutory requirements after RBRU Credible	154

CRDD hearing 158

Who gets a CRDD hearing?.....	159
Procedures for the interview prior to a CRDD hearing.....	160
Preparations for a CRDD hearing after the interview	161
How to arrange a CRDD hearing from non Backlog CICs	162
Consequences of the CRDD hearing	163
Grounds for a Section 27 report	164
Flowchart for CRDD hearing.....	168
G1: Letter - Intent to cancel Minister's permit.....	169

Inquiry..... 173

Who gets an inquiry?.....	174
How to prepare for an inquiry.....	175
The Inquiry process for Group 4.....	176
Inquiry process for persons in Group 4 found credible	177
H1: Call-in Notice - Inquiry (Group 4).....	181

Final Humanitarian and Compassionate Review..... 185

What is a final H and C review? (Pre-removal review)	186
How to arrange a final H and C review.....	187
After a positive final H and C review	188
After a negative final H and C review	189
I1: Pre-removal Decision Form - Positive.....	193
I2: Pre-Removal Decision Form - Negative.....	194

Table of Contents (continued)

	Page #
Scenarios	198
Introduction to the scenarios	199
Scenario # 1: Landing.....	200
Scenario # 2: Removal.....	202
Scenario # 3: Minister's Permit	204
Scenario # 4: Voluntary Departure	206
Scenario # 5: Landing.....	208
Scenario # 6: Removal.....	210
Scenario # 7: Landing.....	212
Scenario # 8: Removal.....	214
Scenario # 9: Minister's Permit	216
Scenario # 10: Convention Refugee.....	218
Scenario # 11: Convention Refugee.....	220
Scenario # 12: Removal	222
Scenario # 13: Landing.....	224
Scenario # 14: Removal	226
Stage 3--Implementing the decision	232
Stage 3--Implementing the decision: Overview.....	233
How this chapter is organized.....	234
Staying in Canada	235
How to land persons whose claim has a credible basis and who meet statutory requirements	236
How to land persons on Humanitarian and Compassionate grounds.....	237
Procedures for landing persons with outstanding removal orders.....	238
How to close the file--All groups	239
Rules affecting dependants abroad of backlog members.....	240
What should be in the file after landing--Credible basis claims.....	241
What should be in the file after landing--H and C grounds.....	242
The Convention refugee process	243
Allowing a person to remain under a Minister's permit.....	244
What if the officer has to stop the landing process?.....	245

Table of Contents (continued)

Page

Staying in Canada (continued)

Flowchart--Landing persons with a Credible basis (Groups 1,2,3).....	249
Flowchart--Landing persons with positive initial H & C review	250
Flowchart--Landing persons with positive final H & C review.....	251
J1: CIC Letter to USINS.....	252
J2: Letter to Canada Immigration Officer at Port of Entry	253
J3: Separation of Family Statement.....	254

Voluntary Departure.....258

Voluntary departure: Initial procedures.....	259
Voluntary departure: What happens at the Port of Entry?	260
Voluntary departure: CIC follow-up.....	261
What the file should contain after a person has departed voluntarily.....	262
Flowchart--Voluntary departure.....	266
K1: Introduction to Visa Office.....	267
K2: Voluntary Departure Checklist	268
K3: Verification of Departure Letter.....	269

Removal273

Removal procedures.....	274
Removal for Group 2 with no grounds for a Section 27 report	275
What the file should contain after a person has been removed.....	276
Flowchart--Removal after negative final H&C - Groups 1, 3, 4	280
Flowchart--Removal after negative final H&C - Group 2.....	281
L1: Letter - Cancellation of Minister's permit and Direction to leave Canada.....	282
L2: Pre-removal H&C Negative.....	283

Dependants286

Dependants joining a backlog member.....	287
What if the dependant's claim is found to have a credible basis?.....	288
How to process dependent children under 18 years of age	289
Priority Processing abroad of dependants of backlog claimants.....	290
What factors does the visa officer consider?.....	291

List of Appendices

	Page #
A1--Credible Basis Form--Positive.....	48
A2--Credible Basis Form--Negative	49
B1: Call-in Notice - Humanitarian and Compassionate Review (General).....	74
B2: Voluntary Departure Details.....	75
B3: Call-in Notice - Humanitarian and Compassionate Review (IC 1.22(1)(B) countries)	76
B4 - Humanitarian and Compassionate Summary form	77
B5: Letter of Refusal - H&C Negative (IC 1.22(1)(B) countries).....	78
B6: Letter of Refusal - H&C - Group 4 (IC 1.22(1)(B) countries)	79
B7: Letter of Refusal - H&C Negative (Group 1 found credible at RBRU, failed statutory requirements).....	80
B8: Acknowledgement of Right to Counsel.....	81
C1: Letter of Refusal - H&C Negative (General).....	96
C2: Letter of Refusal - H&C - Group 4 (General).....	97
C3: Acknowledgement of Right to Counsel.....	98
D1: Call -in Notice - Panel Hearing/Inquiry Resumption.....	114
E1: Approval Letter - Credible Basis - Transcript Cases.....	129
E2: Approval Letter - Oral Hearing for Credible Basis	130
E3: Letter of Refusal - Credible Basis - Ineligible to apply	131
F1: Call-in Notice - H &C Review (Group 1, credible at RBRU, failed statutory requirements).....	149
F2: Letter of Refusal.....	150
F3: Letter of Refusal - H&C, failed statutory requirements.....	151
F4: Letter of Refusal - Credible/Failed statutory requirements (Group 4)	152
F5: Approval Letter - Humanitarian and Compassionate Grounds.....	153
F6: Letter of Refusal - Group 1: H&C, failed statutory requirements after RBRU Credible	154
G1: Letter - Intent to cancel Minister's permit.....	169
H1: Call-in Notice - Inquiry (Group 4).....	181
I1: Pre-removal Decision Form - Positive.....	193
I2: Pre-Removal Decision Form - Negative.....	194

List of Appendices (continued)

	Page #
J1: CIC Letter to USINS.....	252
J2: Letter to Canada Immigration Officer at Port of Entry	253
J3: Separation of Family Statement.....	254
K1: Introduction to Visa Office.....	267
K2: Voluntary Departure Checklist	268
K3: Verification of Departure Letter.....	269
L1: Letter - Cancellation of Minister's permit and Direction to leave Canada.....	282
L2: Pre-removal H&C Negative.....	283

List of Detailed Flowcharts

Page

Stage 1--Initiating the process

Flowchart for Stage 1--Initiating the Process	47
---	----

Initial Humanitarian and Compassionate Review (continued)

Flowchart for Initial H and C review--Group 1, Credible and failed statutory requirements	71
Flowchart for Initial H and C review--Group 1 found Credible by RBRU, not eligible to apply for landing under RCDC Regulations	72
Flowchart for Initial H and C review--Groups 2-4, and Group 1, screened Non-Credible.....	73

Voluntary Departure Counselling

Flowchart for Voluntary Departure Counselling	95
---	----

Panel hearing

Flowcharts for Panel Hearing--Groups 1 and 3	112
Flowcharts for Panel Hearing--Group 2	113

Eligibility to apply for landing under RCDC Regulations

Flowchart--Assessing eligibility to apply for landing under RCDC Regulations--Group 1 credible at RBRU.....	127
Flowchart--Assessing eligibility to apply for landing under RCDC Regulations--Groups 2, 3, 4	128

Assessing Statutory Requirements

Flowchart for Assessing Statutory Requirements--Group 1	146
Flowchart for Assessing Statutory Requirements--Group 1 (continued)	147
Flowchart for Assessing Statutory Requirements--Groups 2, 3, 4	148

CRDD hearing

Flowchart for CRDD hearing.....	168
---------------------------------	-----

Staying in Canada

Flowchart--Landing persons with a Credible basis (Groups 1,2,3).....	249
Flowchart--Landing persons with positive initial H & C review	250
Flowchart--Landing persons with positive final H & C review	251

List of Detailed Flowcharts (continued)

Page #

Voluntary Departure

Flowchart--Voluntary departure.....266

Removal

Flowchart--Removal after negative final H&C - Groups 1, 3, 4280

Flowchart--Removal after negative final H&C - Group 2281

Index

- Adjudicator
 - role 39
- assess statutory requirements 7, 136-142
 - failing 122, 139
 - next steps 141, 142
 - Flowcharts 146-148
 - meeting 140
 - scenario #1, 200
- Case Management Branch
 - role 11
- Case Presentation and Appeals
 - role 12
- Computerized Operational Support System (see COSS)
- Convention refugee 2, 5, 121, 243
 - removal
 - scenario #11, 220
 - scenario #10, 199, 218
- COSS 13, 58, 63, 239, 262
 - assessing statutory requirements 137
 - CRDD hearing 161
 - inquiry 175
 - panel hearing 104
- cost recovery 30, 236, 237
- CRDD
 - decision 6
 - description 6
- CRDD hearing 66, 123, 159-164
 - definition 159
 - Flowchart 168
 - next steps 163
 - who receives 159
- CRDD member
 - role 39
- credible basis 2, 6, 138
 - role of the Adjudicator and CRDD member 7
- criminal 121, 241, 242
- criminality 90, 136, 139
 - Convention refugee 163
 - exclusion under RCDC Regs. 3
 - information in COSS 13
 - not allowed to work 29

Index (continued)

- dependants 41, 287-291
 - abroad 240
 - credible basis 288
 - criminality 287
 - priority processing abroad 290
 - study in Canada 28
 - under 18 years of age 289
 - withdrawal 41
 - work in Canada 29
- Direction to Leave 164, 186
- eligibility
 - for processing under the Transitional Provisions (ineligible for a hearing) 40
- eligibility to apply for landing under RCDC Regs. 5, 43, 108, 119-123
 - not eligible 121
 - Flowcharts 127-128
- eligibility to have a claim considered
 - role of the Adjudicator and CRDD member 7
- employment form 239, 241, 242, 262
- examination under oath 3, 6
- fee 30. 62, 236, 237, 239, 241, 242
- fingerprints 137, 259
- grounds for a Section 27 report 108, 164
- Group 1
 - contents of file 37
 - description 14
 - Summary diagram 18, 19-21
 - what happens in Stage 1 16
- Group 2
 - contents of file 37
 - description 14
- Group 3
 - contents of file 37
 - description 14
- Group 4
 - contents of file 37
 - description 14
 - inquiry process 176-177

Index (continued)

- humanitarian and compassionate considerations
 - final 5, 186-189
 - initial 5, 57-67
 - Flowchart 71-73
 - pre-removal (see final)
 - role of the Immigration Officer 7
 - role of the Minister's delegate 7
- in-status claim
 - definition 14
- ineligible to apply for landing under the RCDC Regulations 123
- initial Humanitarian and Compassionate Review 43, 57-67, 123
- inquiry 91, 108, 174-177
 - role of the Case Presenting Officer 7
 - role of the Senior Immigration Officer 7
 - scheduling with COSS 13
 - who receives 174
- Investigation, Detention and Removal
 - role 12
- investigations
 - disappearances 5, 64-65, 106, 121
- joint claims 41
- landing
 - credible basis 236
 - final H&C grounds
 - scenario #5, 208
 - Flowcharts 249-251
 - humanitarian and compassionate considerations 237
 - scenario #1, 200
 - scenario #13, 224
 - scenario #7, 212
- leaving Canada 234
- legislative authority 4
- letter of introduction 89
- medical 90, 137, 139, 241, 242
 - not allowed to work 29
- Medical Surveillance Undertaking, Form IMM 535 239
- Minister's Permit 216
- Minister's Consent 90, 242

Index (continued)

- Minister's permit 214, 236, 239, 241, 242, 244
 - grounds for a Section 27 report 164
 - how to extend 105
 - not allowed to work 29
 - scenario #3, 204
 - scenario #9, 216
- O-I-C approval. 188
- O-I-C waiver 137, 212
- Operational Intelligence and Security
 - role 12
- Order in Council waiver (see O-I-C waiver)
- organization chart 8, 9, 10
- outstanding departure notices or removal orders 238
- panel hearing 2, 6, 66, 90, 91, 103-108
 - definition 103
 - flowcharts 112, 113
 - preparation 104
 - scheduling with COSS 13
 - who receives 103
- passports 239, 241, 242
- PIF 58, 62, 63, 187
- Port of Entry
 - role 12
- RBRU 188
 - description 6
 - role 16, 36, 39
- Reasonable grounds 136
- Refugee Backlog Review Unit (See RBRU)
- removal 121
 - fails to meet statutory requirements
 - resume inquiry
 - scenario #14, 226
 - negative final H&C
 - scenario #12, 222
 - priorities 15
 - scenario #2, 202
 - scenario #6, 210
 - scenario #8, 214
- scheduled countries 66, 214
- security risks 121
- spouse 41, 287

Index (continued)

- Stage 1 processing
 - description 16
 - detailed procedures and results 39
 - Flowchart 47
 - Overview 36
- Stage 2 processing
 - description 16
 - examples 52
 - first step 54
 - Overview 51
 - scenarios 199-227
- Stage 3 processing
 - description 16
 - overview 233
- statutory requirements (see assessing statutory requirements)
- Staying in Canada 234, 236-245
- Summary diagrams
 - Group 1--Found Credible by the RBRU 19
 - Group 1--Screened non-credible by RBRU 21
 - Group 2 22, 23
 - Group 3 24, 25
 - Group 4 26, 27
 - how to read 17
- Transitional Provisions 3, 6
- voluntary departure 66, 91, 259-262
 - Flowchart 266
 - implications 90
 - port of entry 260
 - scenario #4, 206
- voluntary departure counselling 89
 - flowchart 95
- welfare 136
- withdrawal 41, 90
- work in Canada 29

A note on the format of this manual

Introduction This manual has been written in a format called Modular Mapping, which is:

- easy to read
- easy to refer to

This page describes some of the features which will help you to use this manual efficiently.

Description Each page has a title which describes the topic of the page.

In the left-hand margin, you will find descriptive labels which indicate the type of information given on the page. For example, you will see headings such as: **Definition**, **Example**, **Rule**, **Fact**.

Information is given in point form wherever possible.

To help you find what you are looking for, the manual contains:

- detailed Tables of Contents for each chapter
- a Table of Contents for the entire manual
- an index of commonly-sought terms
- divider tabs, each labelled with the name of the section

At the bottom of each page, there is space for cross-references:

- on the left hand side, the heading **Related Pages** contains useful references to other pages in this manual.
 - on the right-hand side, the heading **Legal Reference** may appear, with references to specific legal citations relevant to the information on the page
 - on the right-hand side, you may also see **Related Material**; this heading contains references to other useful manuals or material
-

Comment We encourage you to become familiar with this manual, and to make it your personal working tool.

You may wish to add your own cross-references in the **Related Pages** block at the bottom of each page.

You may wish to make notes on the reverse side of the pages, which have been left blank for this purpose.

If you have comments or suggestions for improving this manual, please forward them to Oakley Duff, Backlog Clearance, NHQ.

**Related
Pages**

Definitions

The **CRDD Hearing** is a legal oral hearing that:

- is ruled on by two members of the Convention Refugee Determination Division
- determines whether a person is a Convention Refugee

For a member of the Refugee Claimants Designated Class, the term, **Dependant**, refers to any of the following who is in Canada on the day the member makes an application for landing:

- i) the spouse of that person
- ii) any unmarried son or daughter of that person or of the spouse of that person
- iii) any unmarried son or daughter of a son or daughter referred to in sub-paragraph (ii)

A **Panel Hearing** is an oral hearing that:

- is ruled on by an adjudicator and a member of the CRDD
AND
- determines whether a person's claim has a credible basis

Reasonable grounds is defined as "a set of facts or circumstances which would satisfy an ordinarily cautious and prudent person and which are more than mere suspicions."

Refugee Claims Backlog refers to the whole category of persons:

- whose intent to claim refugee status was recorded by an immigration official prior to January 1, 1989; AND
 - whose claims were still outstanding on January, 1, 1989
-

Related
Pages

List of Abbreviations

BCIC	Backlog Canada Immigration Centre
BPDC	Backlog Program Development and Coordination Unit
CIC	Canada Immigration Centre
COSS	Computerized Operational Support System
CPO	Case Presenting Officer
CRDD	Convention Refugee Determination Division
EIC	Employment and Immigration Canada
H&C	Humanitarian and Compassionate
IRB	Immigration and Refugee Board
NHQ	National Headquarters
OIC	Order-in-Council
PIF	Personal Information Form
POE	Port of Entry or Port of Exit
RBRU	Refugee Backlog Review Unit
RCDC	Refugee Claimants Designated Class
SIO	Senior Immigration Officer
USINS	United States Immigration and Naturalization Service

Overview Chapter

Table of Contents

	Page #
Overview Chapter	1
The purpose of the new legislation.....	2
How the new legislation addresses the backlog of refugee claims.....	3
Overview of the Backlog Clearance system.....	4
The Refugee Claimants Backlog Procedures.....	5
What agencies are involved in the Backlog Clearance system?.....	6
Role of the officials involved in the Backlog Clearance system.....	7
Reporting relationships--EIC National Headquarters and IRB	8
Organization chart for National Headquarters	9
Organization chart--Enforcement Branch, NHQ.....	10
Responsibilities--Enforcement: Backlog Clearance.....	11
Responsibilities of the other parts of Enforcement Branch, NHQ	12
Computerized Operational Support System (COSS)	13
Summary of basic categories of persons claiming refugee status.....	14
Priorities for the order in which cases are handled	15
What happens in each Stage?	16
How to read the summary diagrams for Stage 2	17
Group 1--Found Credible by the RBRU	18
Summary diagram: Group 1--Found Credible by the RBRU.....	19
Group 1--Screened Non-Credible by the RBRU	20
Summary diagram: Group 1--Screened non-credible by RBRU.....	21
Group 2.....	22
Summary diagram: Group 2.....	23
Group 3.....	24
Summary diagram: Group 3.....	25
Group 4.....	26
Summary diagram: Group 4.....	27
Can backlog members or their dependants study in Canada?	28
Can backlog members or their dependants work in Canada?	29
Fees associated with the Backlog Clearance system	30
Spare.....	31
Spare.....	32
Spare.....	33

The purpose of the new legislation

Introduction According to international convention, the Government of Canada must identify refugees who need protection.

Under the old legislation which was in effect before Jan. 1, 1989, many people claimed to need protection:

- some, because they genuinely feared persecution if they returned to their country of origin
- some, because they hoped somehow to achieve permanent residence in Canada.

The old system had no mechanism for quickly screening out false or frivolous claims. Real refugees often had to wait a long time to have their cases resolved. This led to a change in the legislation, which came into effect on January 1, 1989.

Purpose The new legislation requires that refugee claimants go before an oral hearing to determine their credibility very early in the process. Non-credible cases are diverted from the process to allow prompt processing of credible claims.

Fact During the latter half of 1988, in excess of 40,000 refugee claimants arrived in Canada. This brought the cumulative total of refugee claims in the backlog to an estimated 85,000.

Preview The next page describes how the new legislation addresses the backlog of refugee claims.

**Related
Pages**



How the new legislation addresses the backlog of refugee claims

Introduction As of January 1, 1989, the legislation changed. Any refugee claims made on or after that date are handled according to the normal provisions of the new legislation.

The new legislation contains special "Transitional Provisions" which outline the procedures for some of the claims that were begun under the old legislation and were still unresolved when the new legislation came into effect.

Definition Refugee Claims Backlog refers to the whole category of persons:

- whose intent to claim refugee status was recorded by an immigration official prior to January 1, 1989; **AND**
- whose claims were still outstanding on January 1, 1989

Facts

- The Transitional Provisions specifically exclude certain persons from pursuing a claim according to the new legislation. These excluded persons are not part of the Refugee Claims Backlog.



- As of January 1, 1989, there were approximately 85,000 cases in the backlog in Canada. These cases had reached various points in the process. Some people had initiated their refugee claims long before January 1, 1989 and had been examined under oath, under the old legislation. Others had not yet reached the stage of being examined under oath. Still others had arrived in Canada just before the new legislation came into effect, and stated that they intended to make refugee claims.

Preview The following page outlines the Backlog Clearance system.

Related Pages Overview of the backlog clearance system, p. 4
Situations in which a person is ineligible for processing under the Transitional Provisions, p. 40

Overview of the Backlog Clearance system

Purpose

The Backlog Clearance system is designed to ensure that:

- all claims in the backlog are processed promptly and fairly, according to the law
- genuine refugees are protected
- frivolous refugee claims are speedily processed.

The system is used to:

- facilitate genuine refugee claims
- screen out non-credible cases.

Results

The Backlog Clearance system leads to one of two outcomes:

- either, the person may stay in Canada
- or, the person leaves Canada.

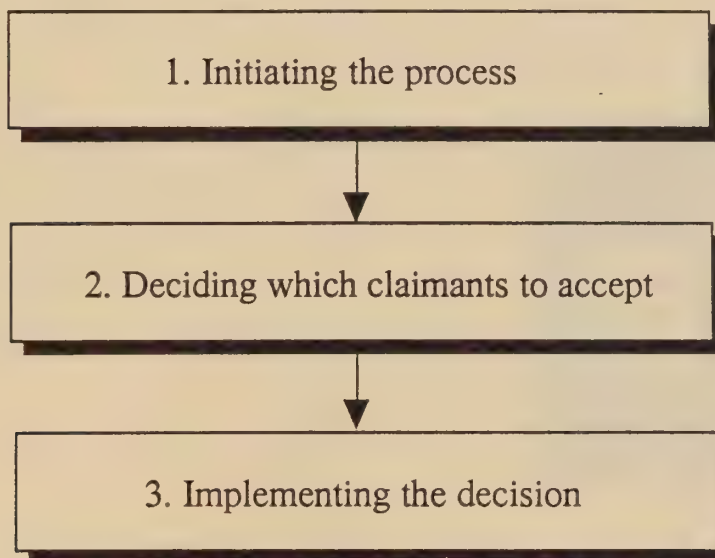
Facts

The legislative authority for the Backlog Clearance system comes from:

- the Immigration Act, S.C. 1988, Ch 35 and Ch. 36
- the Refugee Claimants Designated Class Regulations, which came into effect on December 27, 1989.

Stage Table

The Backlog Clearance system consists of three stages.



Related Pages

Legal Reference

Immigration Act
Ch. 35-36

RCDC Regulations

The Refugee Claimants Backlog Procedures

- Introduction** Persons in the backlog are allowed to stay in Canada under any of the following circumstances:
- if they have been successfully processed for landing under the RCDC Regulations.
 - if they are accepted for humanitarian and compassionate reasons
 - if they are deemed to be refugees under the Geneva Convention.

This manual contains procedures for processing all cases in the refugee claims backlog.

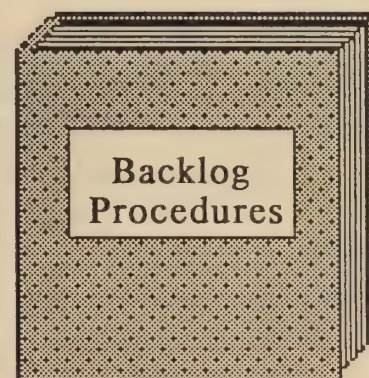
Rules All persons in the backlog must be processed according to the backlog procedures, whether or not they are eligible for landing under the Refugee Claimants Designated Class Regulations.

Description The refugee claimants backlog procedures allow a variety of factors affecting an individual's case to be assessed.

In all situations, before a person is removed from Canada, a final humanitarian and compassionate review is held.

If a person cannot be located at any point in the Backlog Clearance system, then various investigations will be necessary.

**Related
Pages**



What agencies are involved in the Backlog Clearance system?

Summary Table

The following table lists some of the agencies involved in the Backlog Clearance system.

AGENCY	DESCRIPTION
Backlog Canada Immigration Centres (BCIC)	<ul style="list-style-type: none">• process refugee claims in the backlog• are part of Employment and Immigration Canada (EIC)• are located in Vancouver, Mississauga, Toronto and Montreal
Canada Immigration Centres (CIC)	<ul style="list-style-type: none">• may process refugee claims in the backlog, especially in regions which have no BCIC
Refugee Backlog Review Unit (RBRU)	<ul style="list-style-type: none">• is at EIC national headquarters• reviews all cases where an examination under oath has been completed, and the person is eligible for an oral hearing under the Transitional Provisions• screens the cases according to the credibility of the refugee claim
Immigration and Refugee Board (IRB)	<ul style="list-style-type: none">• is a new quasi-judicial body which is entirely independent of Employment and Immigration Canada• consists of:<ul style="list-style-type: none">• the Convention Refugee Determination Division• the Immigration Appeal Division
Convention Refugee Determination Division (CRDD)	<ul style="list-style-type: none">• is part of the Immigration and Refugee Board• hears claims found credible by a panel made up of an adjudicator and a CRDD member• considers evidence, including:<ul style="list-style-type: none">• the human rights record of the country from which the person claims to fear persecution• the disposition of claims made by others who have said they fear persecution in that country• decides whether to grant the person Convention Refugee status

Related Pages

Role of the officials involved in the Backlog Clearance system

Summary Table

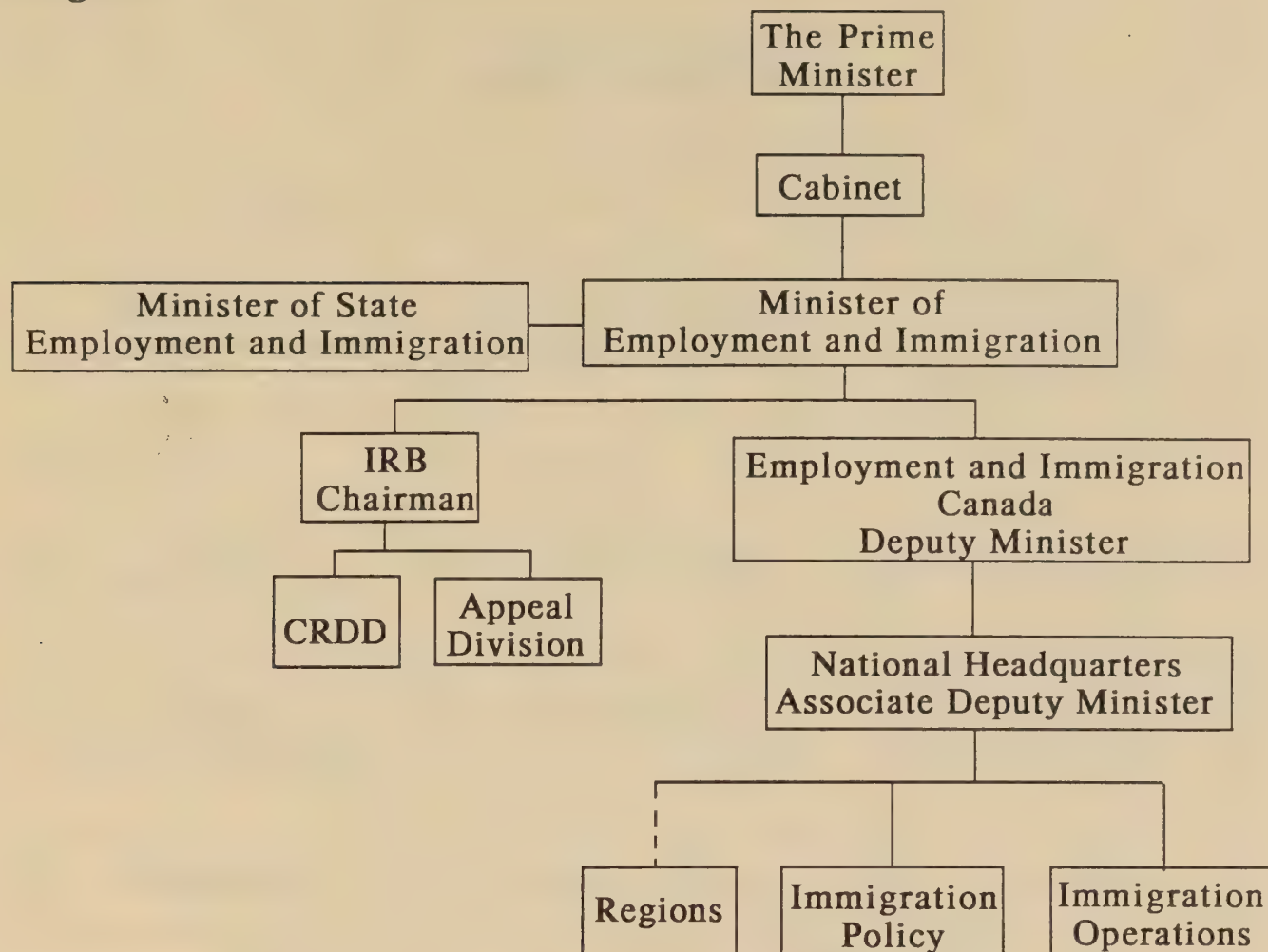
The following table lists the various officials involved in the Backlog Clearance system and their role.

TITLE	ROLE
Immigration officer	<ul style="list-style-type: none">• processes refugee claims in the backlog• interviews claimants• provides information to the person about the process to follow• evaluates humanitarian and compassionate grounds• determines whether persons meet statutory requirements for landing• grants or refuses permanent residence in Canada
Adjudicator	<ul style="list-style-type: none">• decides whether a person can stay in Canada or not
Adjudicator and CRDD member	<ul style="list-style-type: none">• determine if a person is eligible to have a claim considered• determine whether a credible basis exists for the claim to proceed to a full hearing before the CRDD
Minister's delegate	<ul style="list-style-type: none">• makes the final decision if a person can stay in Canada on humanitarian and compassionate grounds, when the person is ordered removed or issued a departure notice
Senior Immigration Officer (SIO)	<ul style="list-style-type: none">• is a senior officer at the BCIC or CIC• causes an inquiry or a hearing to be held
Case Presenting Officer (CPO)	<ul style="list-style-type: none">• is the SIO responsible for presenting the Commission's point of view at an inquiry or hearing

Related Pages

Reporting relationships--EIC National Headquarters and IRB

Diagram



Fact

The IRB is a separate body which reports directly to the Minister of Employment and Immigration.

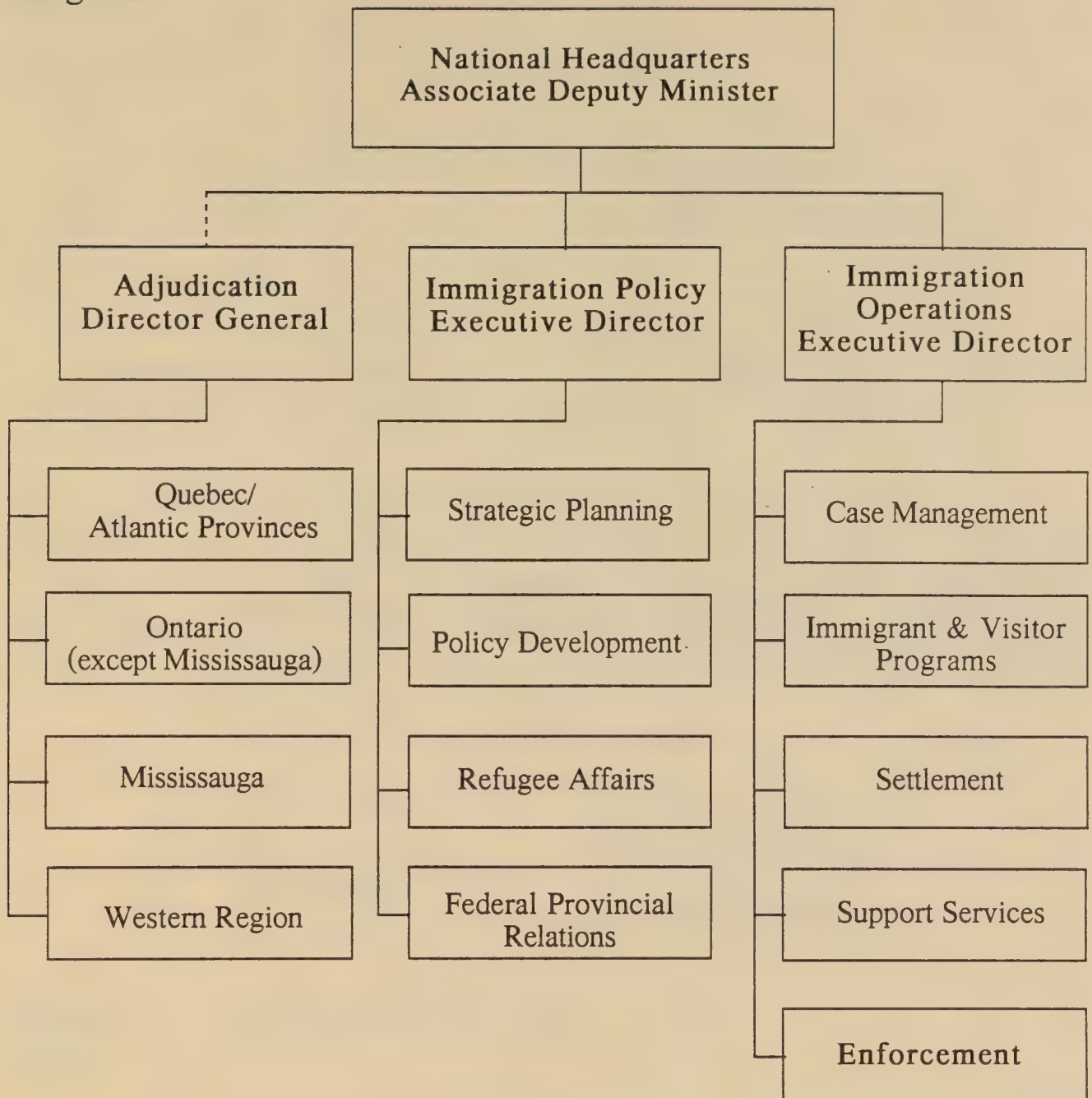
Comment

The Minister and the Deputy Minister also have other responsibilities not represented on the diagram.

Related Pages

Organization chart for National Headquarters

Diagram

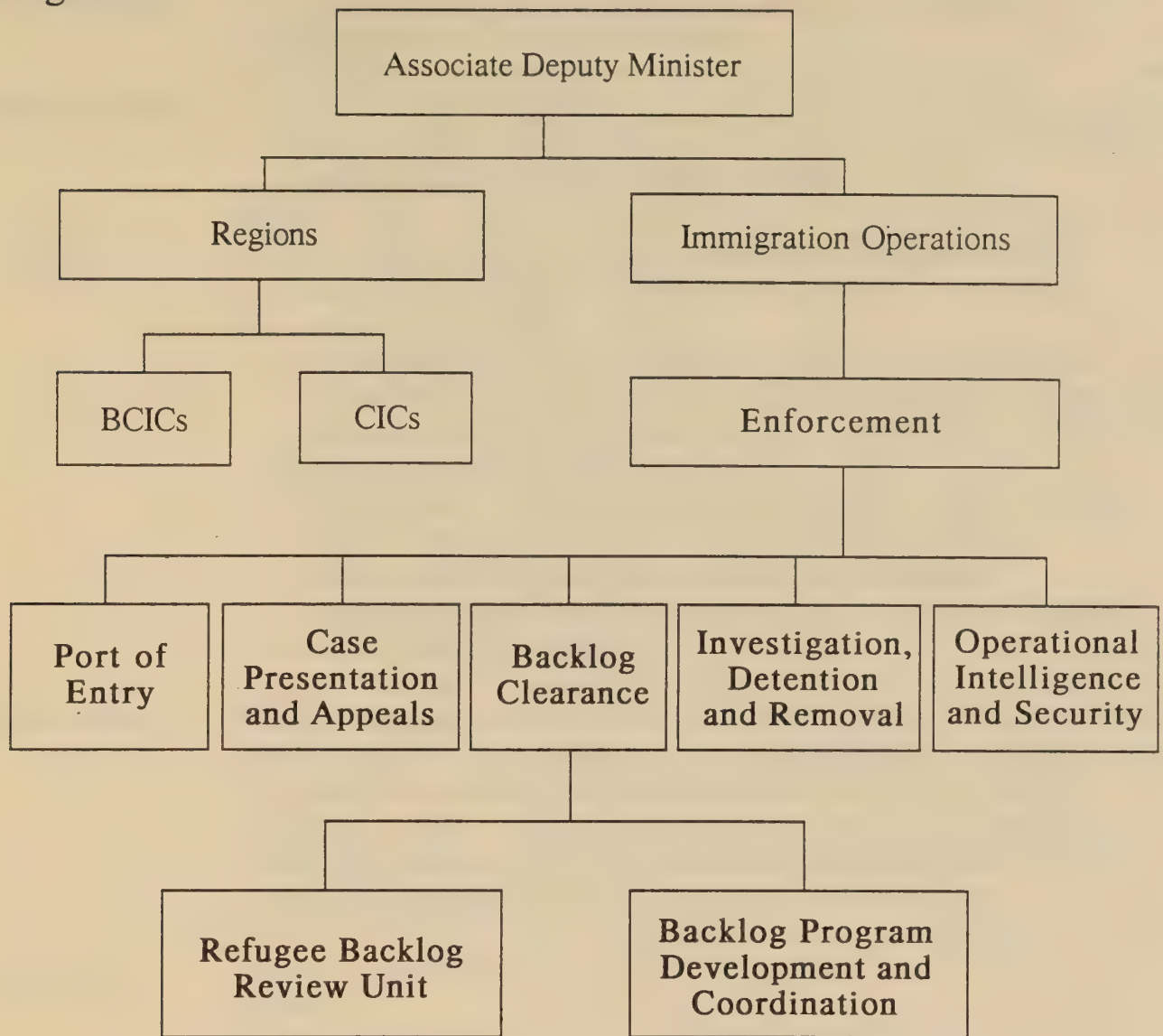


Related Pages

Organization chart, Enforcement Branch, NHQ, p. 10
Responsibilities of the other parts of Enforcement Branch, p. 12

Organization chart--Enforcement Branch, NHQ

Diagram



Related Pages

Responsibilities, pp. 11-12

Responsibilities--Enforcement: Backlog Clearance

Introduction	Enforcement includes five branches. This page outlines the responsibilities of Backlog Clearance.
Description	<p>Backlog Clearance includes:</p> <ul style="list-style-type: none">• Backlog Program Development and Coordination Unit (BPDC)• Refugee Backlog Review Unit (RBRU)
Roles	<ul style="list-style-type: none">• The Backlog Program Development and Coordination Unit:<ul style="list-style-type: none">• develops processes and procedures to clear the backlog of refugee claimants.• coordinates the design of data and monitoring systems, the design and delivery of training and the development of planning and scheduling to ensure the backlog is cleared as scheduled.• The Refugee Backlog Review Unit:<ul style="list-style-type: none">• reviews the transcripts under oath of Group 1 claimants and makes recommendations on credible basis to a panel.• reviews backlog cases prior to removal and makes recommendations on humanitarian and compassionate grounds to a Ministerial delegate.
Comment	Case Management Branch directs the development of strategies and procedures for the management and coordination of individual cases, including those which may affect security, involve criminality or which have serious public policy implications. In the Backlog Clearance process, it provides direction in sensitive cases, Ministerial removal orders and the removal of Convention refugees.
Preview	The next page describes the roles of the other parts of Enforcement Branch.
Related Pages	

Responsibilities of the other parts of Enforcement Branch, NHQ

Summary

This table summarizes the roles of the other parts of Enforcement.

PART	ROLE
Port of Entry	<ul style="list-style-type: none">• develops directives and guidelines on immigration policy and secondary examinations• participates in the development of strategies designed to counter illegal immigration movements to Canada• issues directives and guidelines on POE procedures and practices• monitors, assesses and reports on POE responsiveness to demand for services and compliance with operating standards
Case Presentation and Appeals	<ul style="list-style-type: none">• develops directives and guidelines to support immigration appeal and inquiry systems• identifies and takes cases before an adjudicator, the IRB or the Courts that may impact on immigration legislation• provides input to enforcement and control strategies on the use of case presenting, detention reviews or appeals• issues case presenting and appeal procedures• monitors and assesses inquiry and appeal activities
Investigation, Detention and Removal	<ul style="list-style-type: none">• develops operational strategies concerning the investigation of persons in Canada suspected of contravening the Act• develops operational standards regarding detention and removal• issues procedures, directives and guidelines• monitors and assesses program activities levels and reports on operating standards
Operational Intelligence and Security	<ul style="list-style-type: none">• develops and proposes operational strategies to stop circumvention of the Act• assesses, analyses and monitors immigration intelligence gathering• develops guidelines on the gathering and use of operational intelligence on illegal immigration• issues procedural guidelines and disseminates operational intelligence information

Related Pages

Computerized Operational Support System (COSS)

Definition

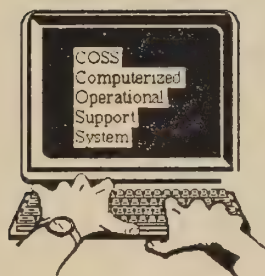
The Computerized Operational Support System is a computer system developed for the Backlog Clearance Program.

Description

- COSS is an updated version of the Refugee Claimant Registration Program, which contained information on all persons claiming refugee status in Canada prior to January 1, 1989. In COSS, this is now Phase I.
- Two additional phases of COSS have been developed to support the backlog clearance process.

Summary Table

This table lists the functions of COSS.



PHASE	DESCRIPTION
I	<ul style="list-style-type: none">• creates, deletes, or updates files• retrieves files by number, name and date of birth
II	<ul style="list-style-type: none">• registers medical, security and criminal processing information• produces forms, letters and address labels• selects or retrieves files based on the above criteria or "brought forward" for follow-ups
III	<ul style="list-style-type: none">• includes statistical information on individual cases• provides statistical reports• provides an automatic scheduling system for interviews, panel hearings and immigration inquiries. Scheduling of <u>interviews</u> is done within the following parameters:<ul style="list-style-type: none">• availability of counsellors• type of case• language• type of interview• number of cases overbookedScheduling of <u>panels/inquiries</u> is done within the following parameters:<ul style="list-style-type: none">• type• contested or not contested• language, group, time and overbooking

Related Pages

Summary of basic categories of persons claiming refugee status

Summary Table

This table describes the four types of claimants in the backlog.

TYPE	DESCRIPTION
Group 1	<ul style="list-style-type: none">• their claims have generally been pending the longest• inquiries have been adjourned under A45(1)• examinations under oath have been done• these claims can be processed under the Transitional Provisions
Group 2	<ul style="list-style-type: none">• this group includes:<ul style="list-style-type: none">• cases where Minister's permits were issued under the B-1 procedures of the old legislation• in-status claims where an examination under oath was done before January 1, 1989
Group 3	<ul style="list-style-type: none">• these claims are like Group 1 claims, in that inquiries have been adjourned under A45(1)• most people in this group arrived between December 1987 and March 1988• these claims have not been pending as long as the Group 1 claims; no examinations under oath have been done
Group 4	<ul style="list-style-type: none">• these are the most recent claims• most people in this group arrived between March 1988 and December 1988• this group includes:<ul style="list-style-type: none">• cases where an inquiry has not been opened• cases where the inquiry was adjourned before A45(1)

Definition

An In-status Claim is a claim which was made by someone in Canada who has:

- valid visitor's status, OR
- a Minister's permit

Fact

In-status claims are **not** handled under the Transitional Provisions.

Related Pages

Persons excluded from processing under the Transitional Provisions, p. 40

Priorities for the order in which cases are handled

Description

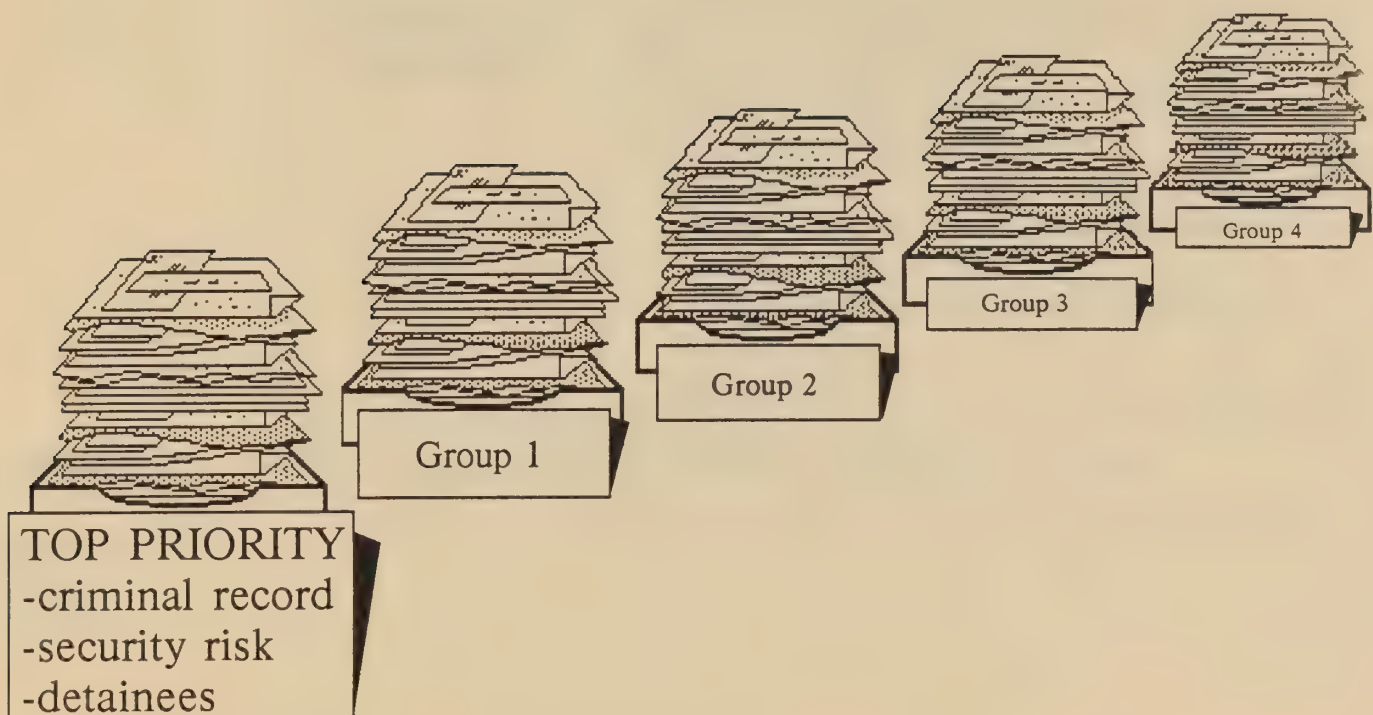
The highest priority will be given to removing the following from Canada:

- any person who has a criminal record
- any person who is a security risk
- any person who is detained under the Immigration Act.

Next, claims will generally be processed in order of priority, as follows:

- first, Group 1 claims, because their cases have been pending the longest
 - then, Group 2 claims
 - then, Group 3 claims
 - finally, Group 4 claims
-

Related Pages



What happens in each Stage?

Summary Table

This table lists the stages in the Backlog Clearance system, and outlines the procedures associated with each.

STAGE	DESCRIPTION
1. Initiating the process	<ul style="list-style-type: none">• this Stage involves only Group 1 files• the RBRU at NHQ screens Group 1 files for credible basis
2. Deciding which claimants to accept	<ul style="list-style-type: none">• this Stage determines who will stay and who will leave.• various factors are assessed. Depending on the details of the case, the particular factors may include:<ul style="list-style-type: none">• eligibility to apply for landing under the RCDC Regulations• humanitarian and compassionate grounds• the credibility of the claim• whether the person is a Convention Refugee• the ability of the person to meet statutory requirements for landing
3. Implementing the decision	<ul style="list-style-type: none">• this Stage involves all files handled by the Backlog Clearance system• in this Stage, depending on the decisions made in Stage 2, persons are:<ul style="list-style-type: none">• landed, OR• allowed to remain with a Minister's permit, OR• allowed to take the voluntary departure option, OR• removed

Preview

Each stage is described in detail in the following chapters.

Related Pages

How to read the summary diagrams for Stage 2

Introduction Because of the many factors which are assessed in Stage 2, and because the factors are assessed in different sequences, depending on the case, summary diagrams have been created to help you follow the appropriate path with any given case.

The diagrams on the following pages outline the decisions which must be made in Stage 2. These diagrams are easier to understand if you know the meaning of the different symbols used to create them.

This page explains how to read the summary diagrams and gives the meaning of the various symbols and formats.

Description Make sure you are using the correct diagram for the group you are interested in. There are two diagrams for Group 1 files. All other groups have only one diagram.

Begin reading each diagram at the top of the page.

You will find a box with rounded corners for each assessment to be done, or major decision to be made, in Stage 2--Deciding which claimants to accept.. Each box contains a question which can be answered YES or NO.

- If the answer to the question in the box is YES, follow the solid arrow out of the box to the next item.
- If the answer to the question in the box is NO, follow the patterned arrow out of the box to the next item.
- Some boxes have more than one YES arrow or NO arrow leaving them, depending on the history of the particular case. These arrows are labelled to help you choose the correct exit route.

Eventually, all the paths through the diagrams lead to one of the grey-shaded boxes. The grey-shaded boxes give the appropriate action to take in Stage 3--Implementing the decision.

The oval boxes represent important actions to be taken at certain points in the process. Usually this involves the inquiry.

Preview At the end of the chapter which describes Stage 2 in detail, you will find several specific examples of cases, and the decision-making path which was followed in each case.

**Related
Pages**

Group 1--Found Credible by the RBRU

Background

An inquiry had been opened and adjourned. An examination under oath was completed after the adjournment.

In Stage 1, claimants in this category have been found to have credible claims by an adjudicator and a CRDD member after favourable recommendations by Case Presenting Officers in the RBRU.

Description

Since the credibility of the claim has already been determined, in Stage 2 the decision flow for persons in this category is somewhat simpler than for other claimants.

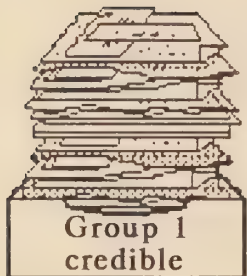
There are two possible starting points depending on the claimant's eligibility to apply for landing under the RCDC regulations.

- if the claimant is eligible to apply, the claimant is allowed to do so and is assessed against the statutory requirements
- if the claimant is not eligible to apply, the case starts with an initial Humanitarian and Compassionate review

Since the credibility of the claim has already been determined, there is no requirement for a second panel decision. Therefore, if no Humanitarian and Compassionate grounds were found at the initial review, or if the person failed to meet statutory requirements after a favourable initial Humanitarian and Compassionate review and a Minister's Permit was not issued, the claim proceeds next to a CRDD hearing.

From a negative finding at a CRDD hearing, the inquiry is resumed and a claim would pass through the regular reviews until a decision is reached. Depending on the result at each review, these reviews could include:

- did the adjudicator allow the person to stay?
- are there humanitarian and compassionate grounds?
- does the claimant meet statutory requirements?
- should a Minister's Permit be issued?



Fact

A claimant with a claim found to be credible may choose to go directly to a CRDD hearing instead of applying for landing.

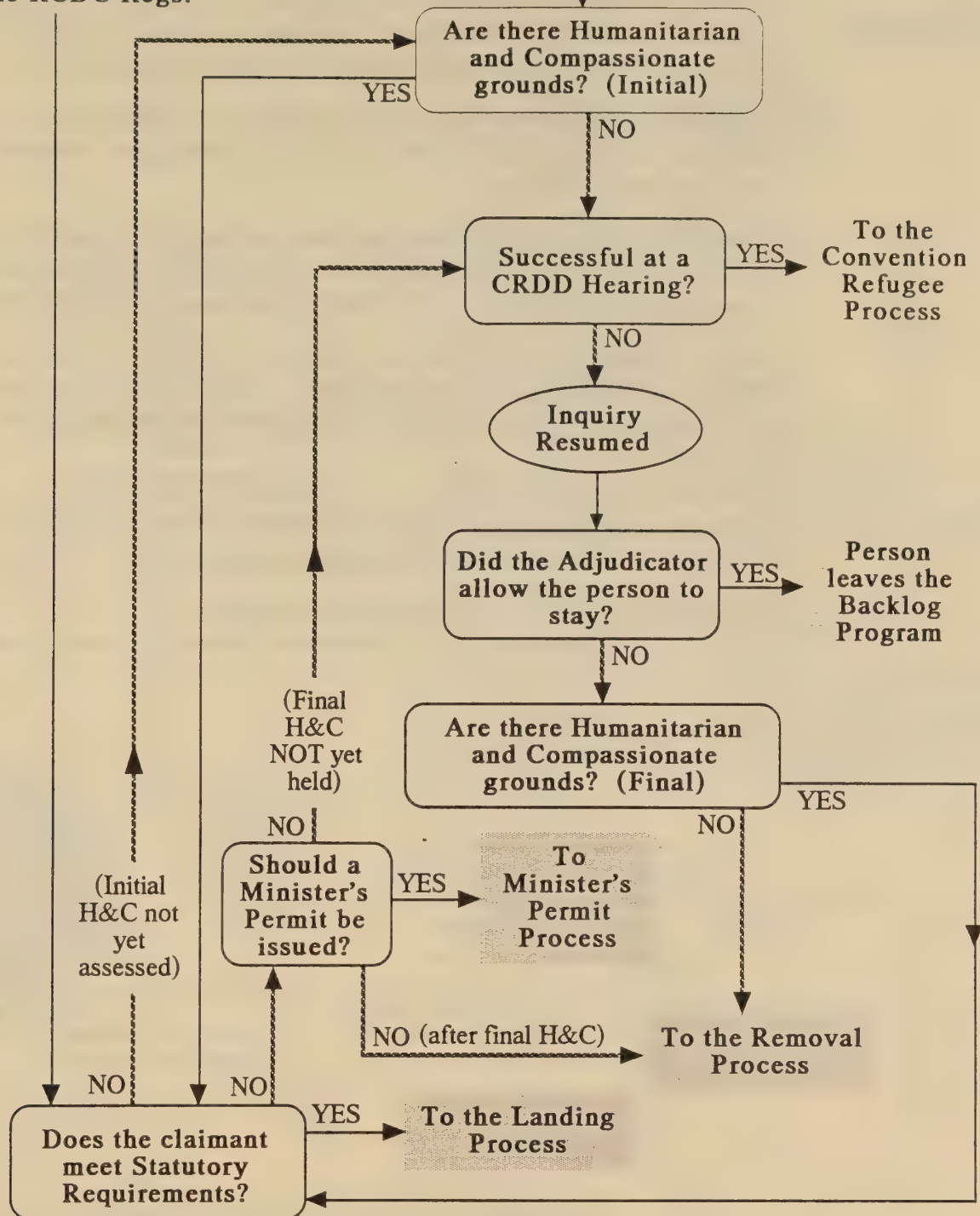
This path is not shown on the decision chart.

Related Pages

Summary diagram: Group 1--Found Credible by the RBRU

Stage 2 starts here for
Group 1 Credible
Claims which are
Eligible to Apply
under the RCDC Regs.

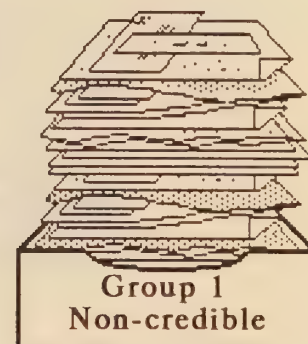
Stage 2 starts here for Group 1 Credible
Claims which are NOT Eligible to
Apply under the RCDC Regs.



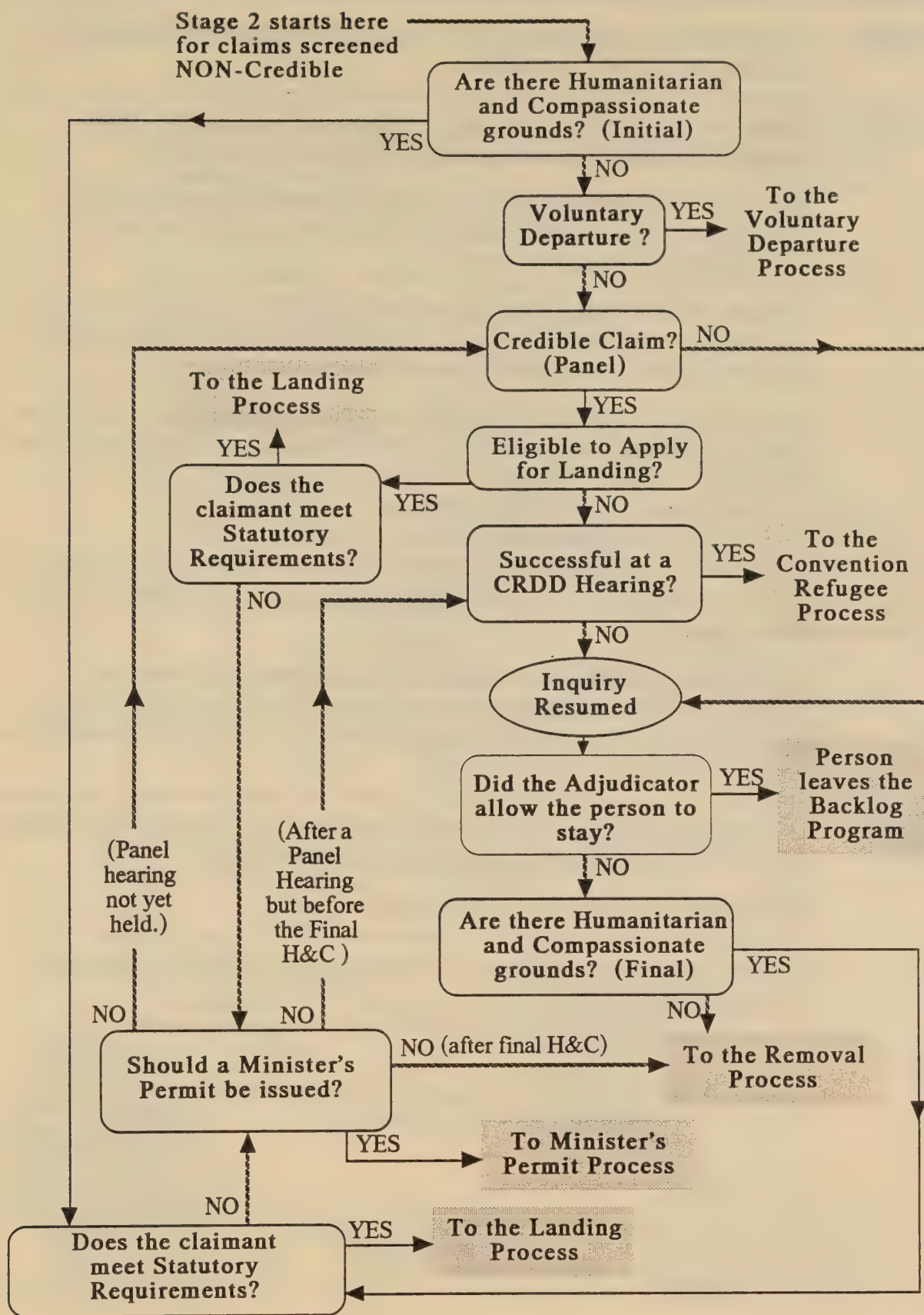
Group 1--Screened Non-Credible by the RBRU

Background	<p>In Stage 1, the claims of claimants in this category were screened by the RBRU to be non-credible. This screening was <u>not</u> confirmed by an adjudicator and a CRDD member.</p>
Description	<p>There is only one starting point in Stage 2 for claimants in this category: Initial Humanitarian and Compassionate review.</p> <p>Since the credibility of the claim has <u>not</u> been determined by an adjudicator and a CRDD member, all of the regular reviews are included in the process.</p> <p>In addition, persons who are <u>not</u> from “scheduled” countries have the option of Voluntary departure if the Initial Humanitarian and Compassionate review did not find grounds to apply for landing.</p> <p>The sequence of the reviews and the actual reviews conducted will depend on the results of each review. In particular note that it is only possible to go to a CRDD hearing if the claim had been found credible.</p>
Fact	<p>A claimant with a claim found to be credible may choose to go directly to a CRDD hearing instead of applying for landing.</p> <p>This path is <u>not</u> shown on the decision chart.</p>

Related Pages



Summary diagram: Group 1--Screened non-credible by RBRU



Group 2

Background

Claimants in this group are in Canada on a Minister's Permit. No inquiry has yet been opened.

Description

There is only one starting point in Stage 2 for claimants in this category: Initial Humanitarian and Compassionate review.

Since the credibility of the claim has not been determined by an adjudicator and a CRDD member, all of the regular reviews are included in the process.

Persons who are not from "scheduled" countries have the option of Voluntary departure if the Initial Humanitarian and Compassionate review did not find grounds to apply for landing.

In addition to the regular review processes, there are two additional possible reviews which relate to the fact that the person already has a Minister's Permit. These additional reviews are:

- are there grounds for a Section 27 report?
- should the Minister's Permit be cancelled?
- open an inquiry, if there are grounds for a Section 27 report, so an adjudicator can determine if the person is allowed to stay in Canada.

As with all groups, the sequence of the reviews and the actual reviews conducted will depend on the results of each review. In particular note that it is only possible to go to a CRDD hearing if the claim had been found credible.

Comment

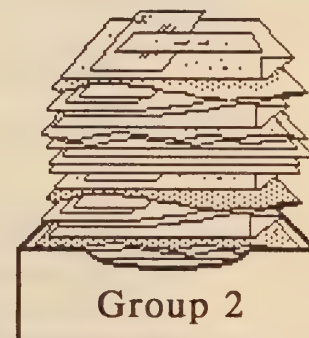
A person with a claim found to be credible may choose to go directly to a CRDD hearing instead of applying for landing.

This path is not shown on the decision chart.

Fact

Group 1 in-status and Group 4 in-status are processed in the same way as Group 2.

Related Pages



Overview



Group 3

Background An inquiry had been opened and adjourned. No examination under oath was completed after the adjournment.

Description There is only one starting point in Stage 2 for claimants in this category: Initial Humanitarian and Compassionate review.

Since the credibility of the claim has not been determined by an adjudicator and a CRDD member, all of the regular reviews are included in the process.

In addition, persons who are not from “scheduled” countries have the option of Voluntary departure if the Initial Humanitarian and Compassionate review did not find grounds to apply for landing.

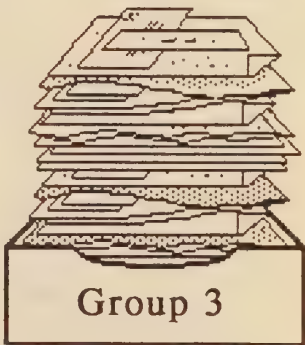
The sequence of the reviews and the actual reviews conducted will depend on the results of each review. In particular note that it is only possible to go to a CRDD hearing if the claim had been found credible.

Fact A claimant with a claim found to be credible may choose to go directly to a CRDD hearing instead of applying for landing.

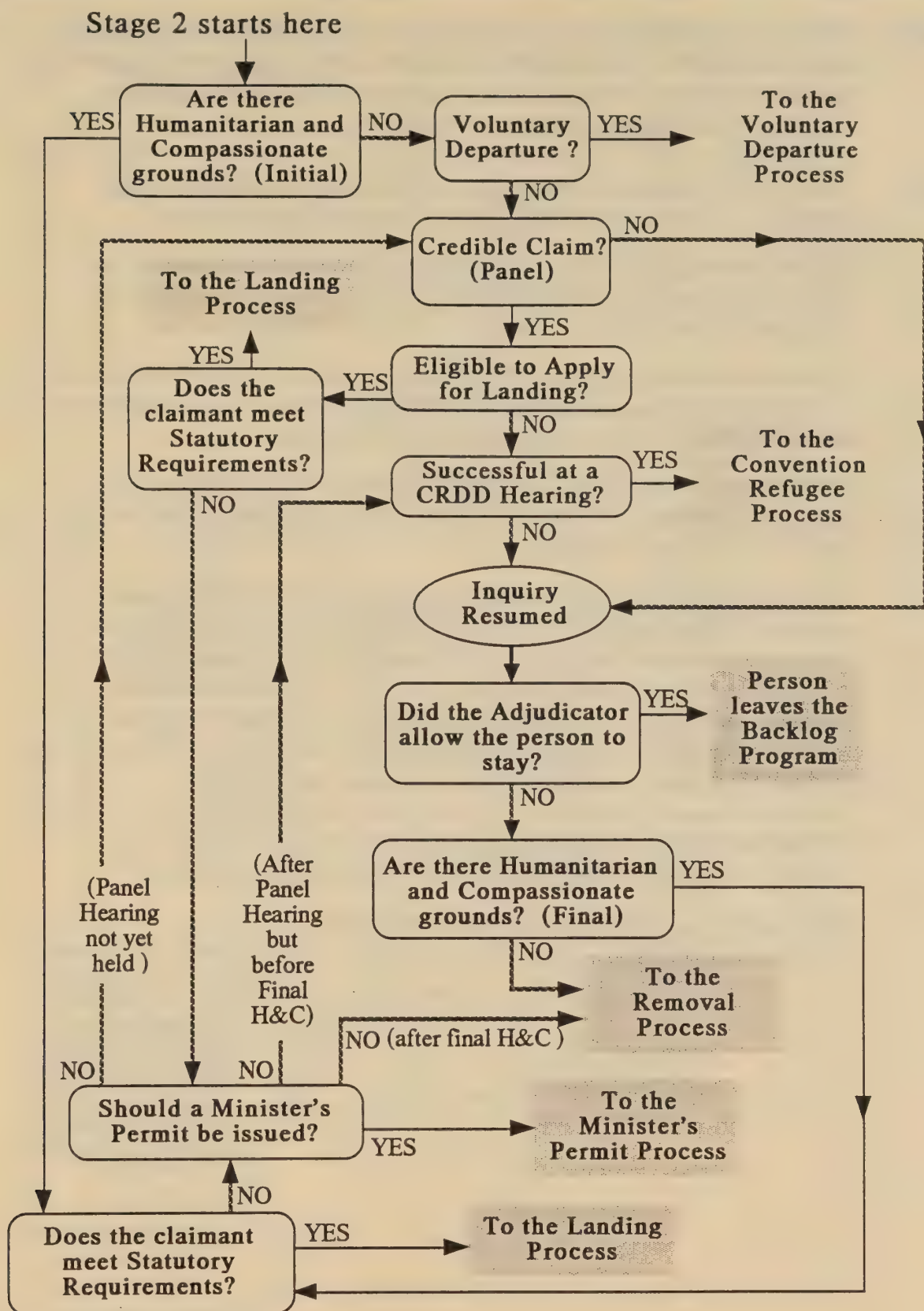
This path is not shown on the decision chart.

Comment Within Stage 2, the Group 3 review process is identical to Group 1 claimants whose claims were screened non-credible by the RBRU.

Related Pages



Summary diagram: Group 3



Group 4

Background Persons in this group may or may not be in Canada on legal status such as visitor's visa, student's visa, etc. While they have applied for refugee status or expressed their intention to apply for refugee status, no inquiry has yet been opened.

Description There is only one starting point in Stage 2 for claimants in this category: Initial Humanitarian and Compassionate review.

Since the credibility of the claim has not been determined by an adjudicator and a CRDD member, all of the regular reviews are included in the process.

Persons who are not from "scheduled" countries have the option of Voluntary departure if the Initial Humanitarian and Compassionate review did not find grounds to apply for landing.

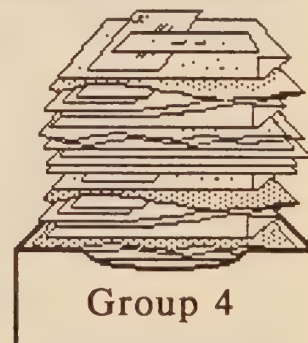
In addition to the regular reviews, this process determines if the claimant is already "in-status". If so, the claimant is processed the same as a Group 2 claimant.

For the remaining claimants who are not "in-status" an inquiry is opened. If the panel finds the claim credible and the Adjudicator is willing to adjourn the inquiry, in response to a request from the claimant's representative and from the CPO who believes the claimant is eligible to apply for landing, the claimant is allowed to apply for landing. If this application is not successful, the inquiry is resumed so that the adjudicator can render his decision.

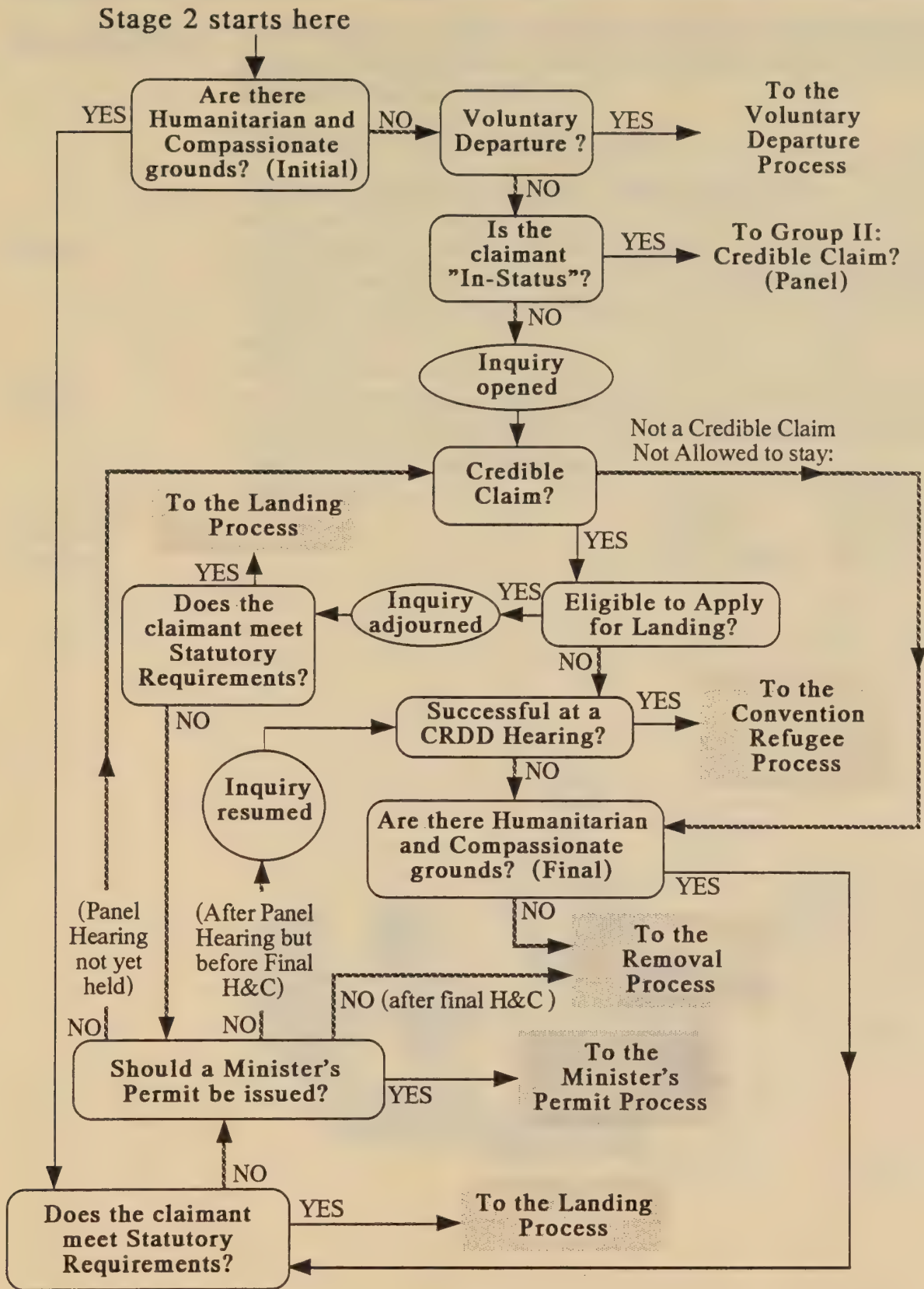
Fact A claimant with a claim found to be credible may choose to go directly to a CRDD hearing instead of applying for landing.

This path is not shown on the decision chart.

**Related
Pages**



Summary diagram: Group 4



Can backlog members or their dependants study in Canada?

Introduction

Before January 1, 1989, if refugee claimants and their dependants possessed "no objection" letters from their local CIC, they could study in Canadian schools.

On January 1, 1989, the law changed.

This page outlines the current student regulations.

Rule

As of January 1, 1989, refugee claimants or their dependants could apply for student authorizations **ONLY** if their claim had been found credible **AND** the claim had been referred to the IRB for a full panel hearing.

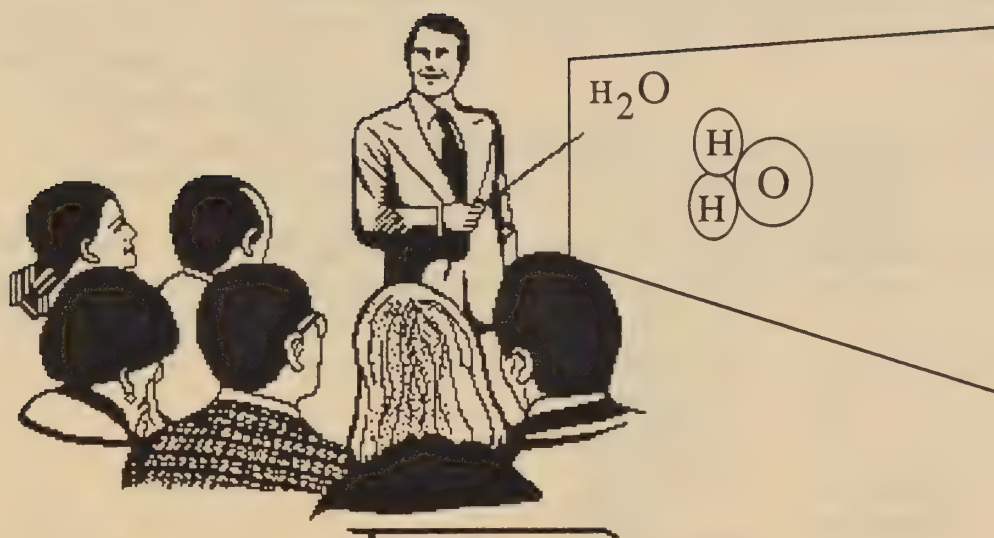
Fact

A recent amendment to Regulations 14.1 and 14.3 allows members of the refugee claims backlog and their dependants to study without having to get an authorization.

Related Pages

Legal
Reference

Regulations 14.1
and 14.3



Can backlog members or their dependants work in Canada?

Introduction The legislation which came into effect on January 1, 1989 allowed persons whose claims were found to have a credible basis to apply for an employment authorization.

Effective January 12, 1989, Regulations 18 and 19 were amended. The amendments allow persons in the backlog to work in Canada without an authorization, so they can support themselves and their families while they wait for decisions regarding their refugee claims.

A recent amendment to Regulations 19(2.1) and 19(2.2) allows in-status claimants and refused ADR claimants to work. This amendment also prohibits the following persons from working without authorization:

- persons who are **not** in the backlog
- students who have violated the terms of their admission, and who are being allowed to complete their studies under a Minister's permit
- criminals or security risks

This page outlines the rules in more detail.

Facts Employment permission forms were sent to all refugee claimants. These forms are **not** required; they were issued to help persons in the backlog get work.

Rules Persons who have **not** passed a medical examination are **not** allowed to work in occupations which could affect public health. They are **not** allowed to work:

- in food service industries
- in close contact with other people, for example: hospital staff, domestics or teachers of primary or secondary students

When persons are departing, being removed, or being landed, the CIC should collect the employment permission forms and retain them on the backlog case file.

**Related
Pages**

Related Material Legal Reference	IS 8 Regulations 18, and 19
---	---------------------------------------

Fees associated with the Backlog Clearance system

Introduction Persons who form part of the backlog have been living in Canada for some time and many are already working.

Description The members of the current refugee claimants backlog are expected to be self-supporting in order to qualify for landing in Canada. In view of this, and because the current backlog population does **not** fit the classic designated class profile, the members of the Refugee Claimants Designated Class are **not** exempt from paying the fees pursuant to the Immigration Act Fees Regulations 3(1)(c.1). This will allow the government to recover costs incurred for processing applications for landing in Canada.

Rule Persons included in the Refugee Claimants Designated Class must pay a fee of \$250 for the processing of their applications for landing.

**Related
Pages**

**Legal
Reference**

Immigration Act
Fees Regulations
3(1)(c.1)



Stage 1--Initiating the process

Table of Contents

	Page #
Stage 1--Initiating the process	34
Introduction to this chapter	35
Overview of Stage 1--Initiating the process.....	36
How the files are categorized.....	37
How are the files handled in the backlog clearance system?.....	38
What happens in Stage 1?.....	39
Situations in which a person is ineligible for processing under the Transitional Provisions (ineligible for a hearing).....	40
How joint claims are handled.....	41
What should be added to the files during Stage 1?.....	42
Summary of the possible findings in Stage 1, and what to do next	43
Spare.....	44
Spare.....	45
Spare.....	46
Flowchart for Stage 1--Initiating the Process	47
A1--Credible Basis Form--Positive.....	48
A2--Credible Basis Form--Negative	49

Introduction to this chapter

Description This chapter describes the first stage in the Backlog Clearance system.

It is divided into three major sections which can easily be identified by the colour of the pages, as outlined in the following table.

SECTION	COLOUR
• pages which outline the procedures to be followed	• ivory
• flowcharts which highlight the major decisions to be made	• pale green
• examples of the forms and letters required at this stage.	• white

**Related
Pages**

Overview of Stage 1--Initiating the process

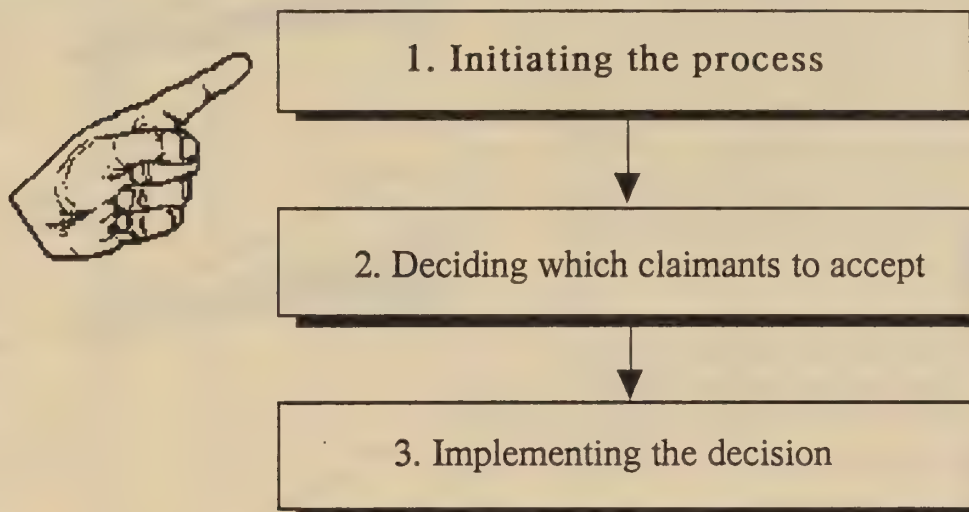
Introduction When the backlog procedures first came into effect, the CICs sent information on Group 1 cases to the Refugee Backlog Review Unit at national headquarters.

The CICs also sorted the other cases into:

- Group 2
- Group 3
- Group 4

The RBRU has been reviewing Group 1 transcripts in order to identify cases with credible basis. This will help expedite the backlog clearance process overall by reducing the number of panel hearings to be held.

Preview This chapter describes Stage 1 in the backlog clearance system.



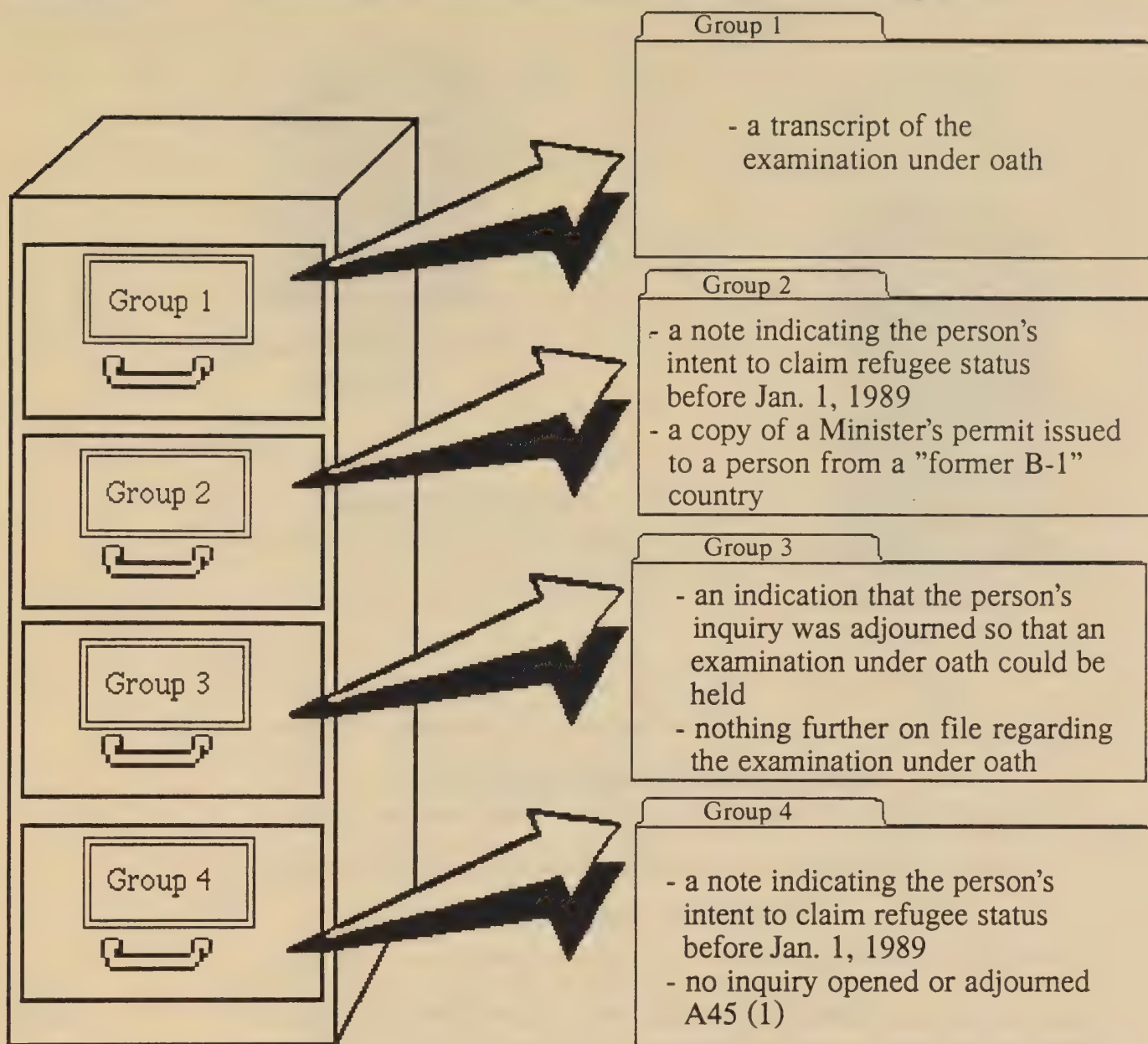
Fact Stage 1 applies **only** to Group 1 files; it is carried out at NHQ by the RBRU.

Related Pages How the files are categorized, p.37

How the files are categorized

Diagram

This diagram outlines what is in each type of backlog file.



Fact

Group 2 contains two other categories:

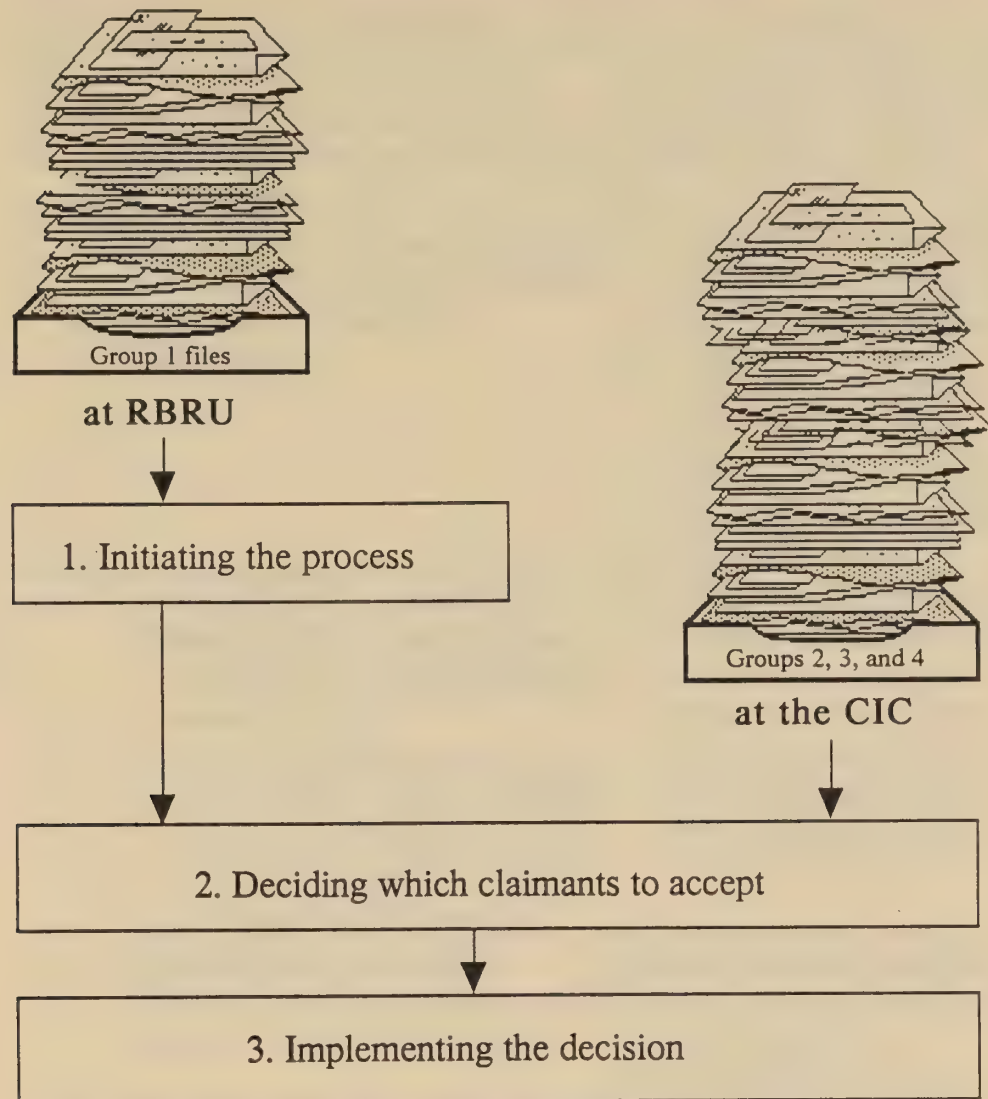
- cases where an examination under oath was completed before January 1, 1989 as a result of an in-status claim
- in-status claims from Group 4

Related Pages

How are the files handled in the backlog clearance system?

Diagram

This diagram will help you visualize how the files are handled.



Fact

Groups 2, 3 and 4 begin to be processed in Stage 2.

Related Pages

What happens in Stage 1?

Procedure Table

The RBRU uses the following procedure to process Group 1 claims.

STEP	DESCRIPTION	RESULTS
1.	The RBRU makes sure the person is eligible for a Panel hearing under the Transitional Provisions	If the person is not eligible for a Panel hearing, the RBRU informs the CIC
2.	For persons who are eligible for a Panel hearing, the RBRU screens the claim for credibility	<ul style="list-style-type: none">• If the RBRU screens the claim non-credible, the RBRU sends the CIC a completed Credible Basis Form-Negative (A2)• The CIC begins Stage 2 by conducting an Initial H and C review
3.	For claims which the RBRU deems to have a credible basis: <ul style="list-style-type: none">• the RBRU officer prepares a summary and a recommendation and fills in the first half of the Credible Basis Form-Positive (A1)• the Case Presenting Officer reviews the information	<ul style="list-style-type: none">• If the Case Presenting Officer agrees with the screening, she or he forms an opinion on behalf of the Minister.• The information goes to the Adjudicator and CRDD member
4.	The Adjudicator and the CRDD member determine the credible basis of the claim	The Adjudicator and the CRDD member sign the second part of the Credible Basis Form-Positive (A1)
4.	The RBRU sends the signed Credible Basis Form-Positive (A1) to the CIC	The CIC then begins Stage 2 by assessing eligibility to apply for landing under the RCDC Regulations

Related Pages

Situations in which a person is ineligible for a Panel hearing under the Transitional Provisions, p. 40

A1, Credible Basis Form-Positive, p. 48

A2, Credible Basis Form-Negative, p. 49

Situations in which a person is ineligible for processing under the Transitional Provisions (ineligible for a hearing)

Description

Situation 1

- On January 1, 1989, the person's inquiry had been adjourned pursuant to A45(1) AND
- the Minister had determined that the person was **not** a Convention refugee AND
- the person did not apply for a redetermination within the 15 days allowed in Immigration Regulation 40(1) AND
- the 15 days had expired before January 1, 1989

Situation 2

- On January 1, 1989, the person's inquiry had been adjourned pursuant to A45(1) AND
- the Minister had determined that the person was **not** a Convention refugee AND
- the IAB rejected an application for redetermination because of a failure to perfect it.

NOTE: Situation 2 does **not** include claims declared abandoned or dismissed by the IAB for want of prosecution.

Situation 3

- On January 1, 1989, the person's inquiry had been adjourned pursuant to A45(1) AND
- the Minister had determined that the person was **not** a Convention refugee AND
- the claim was rejected after an oral hearing by the IAB (T.P.41(b)).

Situation 4

- The person is in one of the above situations, AND
- the Adjudicator had resumed pursuant to A46(1) the person's inquiry on or before January 1, 1989.

Situation 5

- On January 1, 1989, the person's inquiry had been adjourned pursuant to A45(1) AND
 - the Minister had determined that the person was **not** a Convention refugee AND
 - the claim is in progress before the IAB
-

Related Pages

How joint claims are handled

Description

Persons who made joint claims under the old legislation may have been the subject of one examination under oath.

Under the new legislation, each claimant will be the subject of a separate decision.

If a joint claim is screened "NOT credible" at the RBRU, each person is entitled to a separate oral hearing. However, both persons will probably be scheduled together for the initial Humanitarian and Compassionate review, which is held before the oral hearing, and for the oral hearing itself.

Comments

Sometimes, one person may be found to have a credible claim, while the other is screened "NOT credible."

In the case of a married couple, if one spouse is found to have credible basis, and meets the statutory requirements, he or she may be landed under the Refugee Claimants Designated Class Regulations. The other spouse may be included in that application and be landed as a dependant.

Dependants wishing to withdraw their claims are entitled to do so. In such cases, a statutory declaration should be placed on file.

Related Pages



What should be added to the files during Stage 1?

Checklist

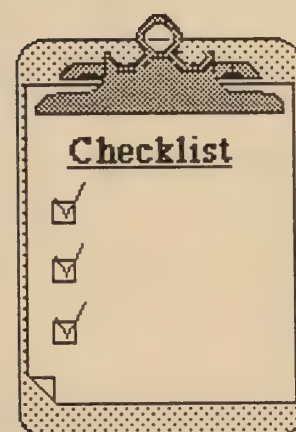
When the initial procedures are complete, Group 1 files have been divided into two categories. This table lists the categories and the documents which must be in the files at this point in the process.

CATEGORY	DOCUMENTS ADDED IN STAGE 1	✓
Credible	<ul style="list-style-type: none">• Credible Basis Form-Positive, (Appendix A1) signed by:<ul style="list-style-type: none">• Case Presenting Officer, RBRU• Adjudicator• CRDD member	
NOT Credible	<ul style="list-style-type: none">• Credible Basis Form-Negative, (Appendix A2) signed by the Case Presenting Officer, RBRU.	

Related Pages

A1, Credible Basis Form-Positive, p. 48


A2, Credible Basis Form-Negative, p. 49



Summary of the possible findings in Stage 1, and what to do next

Summary

This chart summarizes all the possible findings in Stage 1, and gives you the appropriate first step to take in Stage 2.

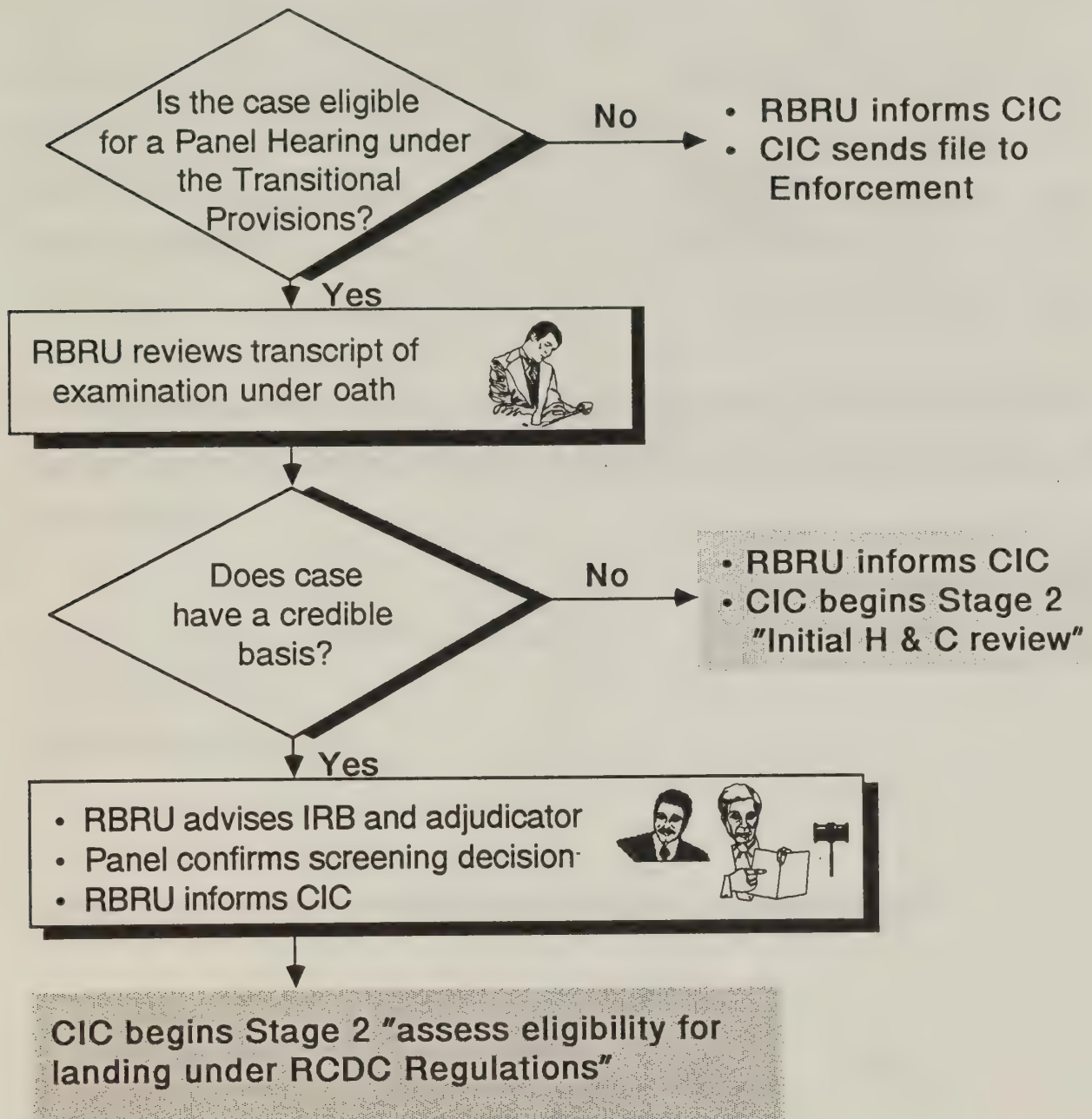
REVIEW OF STAGE 1			FIRST STEP IN STAGE 2
IF the file was...	THEN...	RESULT	
in Group 1, and was eligible for processing under the Transitional Provisions	the RBRU assessed the credibility of the claim	Group 1, • eligible for processing under the Transitional Provisions, • credible	assess eligibility to apply for landing under the RCDC Regulations
		Group 1, • eligible for processing under the Transitional Provisions, • screened non- credible	conduct initial Humanitarian and Compassionate Review
in Group 1, and was not eligible for processing under the Transitional Provisions	the RBRU informed the CIC	the CIC sent the file to the responsible Enforcement CIC  These cases do not get to Stage 2	

Related Pages

Flowchart for Stage 1--Initiating the Process

STAGE 1 - Initiating the process

Group 1 files at RBRU



A1--Credible Basis Form--Positive

CREDIBLE BASIS FORM - POSITIVE Refugee Backlog Review Unit - Group 1

C.I.C. FILE: _____

Client Name: _____

N.H.Q. File: _____

Given: _____

Date of EUO: _____

Middle Name: _____

Number of Claimants: _____

Date of Birth: _____

Sex: _____

Pursuant to subsection 48.01(7) of the Act to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof, the Minister has formed the opinion that the above named claimant has a credible basis for the claim.

_____/Date _____

Case Presenting Officer

Refugee Backlog Review Unit

We find that the claimant has a credible basis for a claim to be a Convention refugee.

_____/Date _____

_____/Date _____

Adjudicator

Refugee Division

Immigration and Refugee Board

A2--Credible Basis Form--Negative

CREDIBLE BASIS FORM--NEGATIVE Refugee Backlog Review Unit - Group 1

C.I.C. FILE: _____

Client Name: _____

N.H.Q. File: _____

Given: _____

Date of EUO: _____

Middle Name: _____

Date of Birth: _____

Nationality _____

Sex: _____

Pursuant to subsection 42(1) of the Transitional Provisions of the Act to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof, please have Senior Immigration Officer cause a hearing to be held before an adjudicator and a member of the Refugee Division with respect to the above named claimant.

_____/Date _____

Refugee Backlog Review Unit

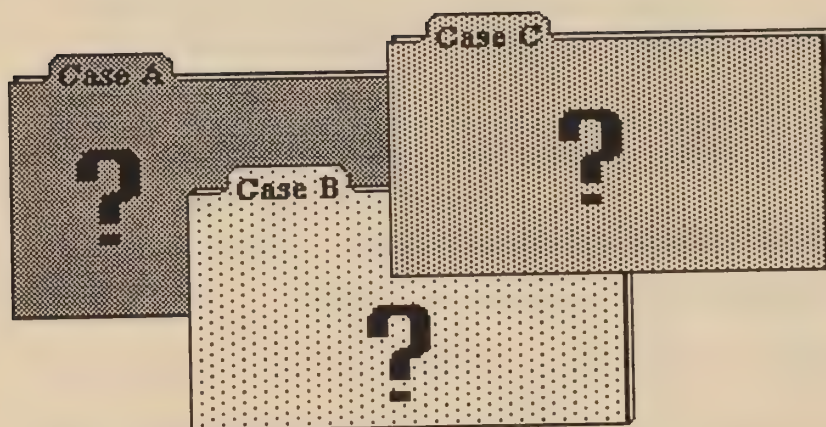
Stage 2--Deciding which claimants to accept

Overview

Table of Contents

Page

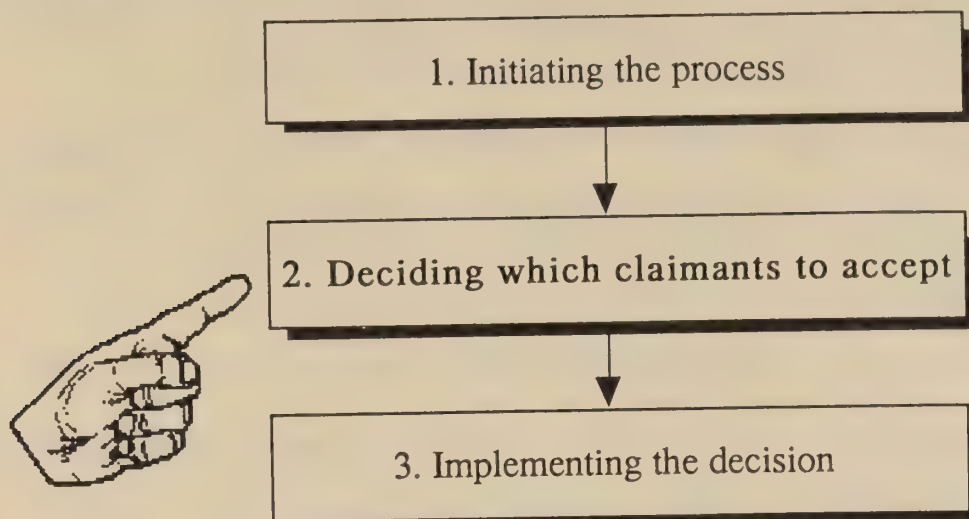
Stage 2--Deciding which claimants to accept.....	50
Overview of Stage 2--Deciding which claimants to accept	51
Examples--Variations in the way factors are assessed in Stage 2.....	52
How this chapter is organized.....	53
What is the first step in Stage 2?	54



Overview of Stage 2--Deciding which claimants to accept

Preview Diagram

This diagram shows the three stages in processing a backlog case. It highlights the subject of this chapter.



Introduction

In Stage 2, various factors are assessed to determine if the person can stay in Canada. Depending on the case, specific questions must be answered, such as:

- does the person have a credible claim?
- is the person eligible to apply for landing under the RCDC Regulations?
- does the person meet statutory requirements for landing?
- are there humanitarian and compassionate grounds for letting this person stay in Canada?
- is this person a refugee under the Geneva Convention?

The sequence in which these factors are assessed can vary.

The number of factors assessed in each case can also vary.

This chapter describes how each factor is assessed, and helps you to determine what factors to assess in a given case.

Related Pages

How this chapter is organized, p. 53

Examples--Variations in the way factors are assessed in Stage 2

Example One

Example of a case assessed on only two factors in Stage 2.

- Situation Mrs. A. arrived in Canada in January, 1988 and made a refugee claim at once. Her inquiry was adjourned. She was examined under oath in November 1988.
- Stage 1 Her case was in Group 1. The RBRU found it credible.
- Stage 2 First, the officer assessed her **eligibility to apply for landing** under the RCDC Regulations; she was eligible. Then, she was found to meet **statutory requirements**.
- Result Her case could go directly to Stage 3.
-

Example Two

Example of a case assessed on four factors in Stage 2.

- Situation Mr. B. arrived in December, 1988; an immigration officer noted that he intended to make a claim.
- Stage 1 His case was part of Group 4.
- Stage 2 First, the officer conducted an **initial Humanitarian and Compassionate** assessment. Mr. B. was found to have no humanitarian and compassionate grounds for staying in Canada. He did not leave voluntarily.
- Next, an inquiry was conducted and his claim was assessed for a credible basis. It was deemed non-credible and he was ordered removed.
- Then, a final, **pre-removal Humanitarian and Compassionate** review was held. Mr. B. was found to have H&C grounds for staying in Canada.
- Then, the officer assessed whether he **met statutory requirements**. He did.
- Result His case could now go to Stage 3.
-

Related Pages

How this chapter is organized

Description This chapter contains a section for each of the major factors which require a decision in Stage 2--Deciding which claimants to accept.

These sections cover:

- Initial H&C review
- Voluntary departure counselling
- Panel hearing
- Eligibility to apply for landing under RCDC Regs.
- Assessing statutory requirements
- CRDD hearing
- Inquiry
- Final H&C review

Each section contains:

- a page which tells you which types of cases require a decision for the particular factor
- an explanation of how the factor is assessed
- a page which explains what to do next, after that factor has been assessed
- one or more flowcharts which summarize the procedures and the possible results, printed on green paper
- examples of the forms you will need when the particular factor is being assessed, printed on white paper.

At the end of this chapter, you will find a section which describes typical scenarios. Each scenario is illustrated with a diagram to help you understand which factors were assessed for the case, and the impact of the decisions made at various points.

**Related
Pages**

What is the first step in Stage 2?

Description

The following table:

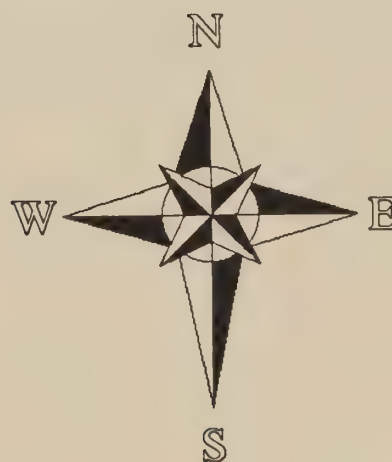
- lists all the files arriving at Stage 2
- tells you the first step to take for each
- and refers you to the appropriate page in this manual.

FILE	FIRST STEP IN STAGE 2	REFER TO...
Group 1, deemed credible	• assess eligibility to apply for landing under RCDC Regulations	pp. 118-131
Group 1, credible, not eligible to apply for landing	• hold initial humanitarian and compassionate interview	pp. 55-81
Group 1, non-credible		
Group 2		
Group 3		
Group 4		

Comment

Throughout this manual, whenever you see a drawing of a compass, such as the one that appears on this page, you will know that you are looking at a page which will help you determine which section of the manual to refer to next.

Related Pages



Stage 2--Deciding which claimants to accept Initial Humanitarian and Compassionate Review Table of Contents'

	Page #
Initial Humanitarian and Compassionate Review	55
Who gets an initial Humanitarian and Compassionate review?	57
Administrative procedures for an initial H and C review	58
Guidelines for the initial H and C review	59
Guidelines	60
How to process a positive initial H&C decision	61
How to process a negative initial H and C decision	62
Forms used for the initial H and C review	63
What to do when a letter is returned "address unknown"	64
Procedures for handling 'no-show' for an H&C interview	65
After a negative initial H and C review: The next major step	66
After a positive initial H and C review: The next major step	67
Spare	68
Spare	69
Spare	70
Flowchart for Initial H and C review--Group 1, Credible and failed statutory requirements	71
Flowchart for Initial H and C review--Group 1 found Credible by RBRU, not eligible to apply for landing under RCDC Regulations	72
Flowchart for Initial H and C review--Groups 2-4, and Group 1, screened Non-Credible	73
B1: Call-in Notice - Humanitarian and Compassionate Review (General)	74
B2: Voluntary Departure Details	75
B3: Call-in Notice - Humanitarian and Compassionate Review (IC 1.22(1)(B) countries)	76
B4 - Humanitarian and Compassionate Summary form	77
B5: Letter of Refusal - H&C Negative (IC 1.22(1)(B) countries)	78
B6: Letter of Refusal - H&C - Group 4 (IC 1.22(1)(B) countries)	79
B7: Letter of Refusal - H&C Negative (Group 1 found credible at RBRU, failed statutory requirements)	80
B8: Acknowledgement of Right to Counsel	81

B9: COSS Data Input form	83
B10: Spare.....	84
B11: Spare.....	85
B12: Spare.....	86
B13: Spare.....	87
B14: Spare.....	88

Who gets an initial Humanitarian and Compassionate review?

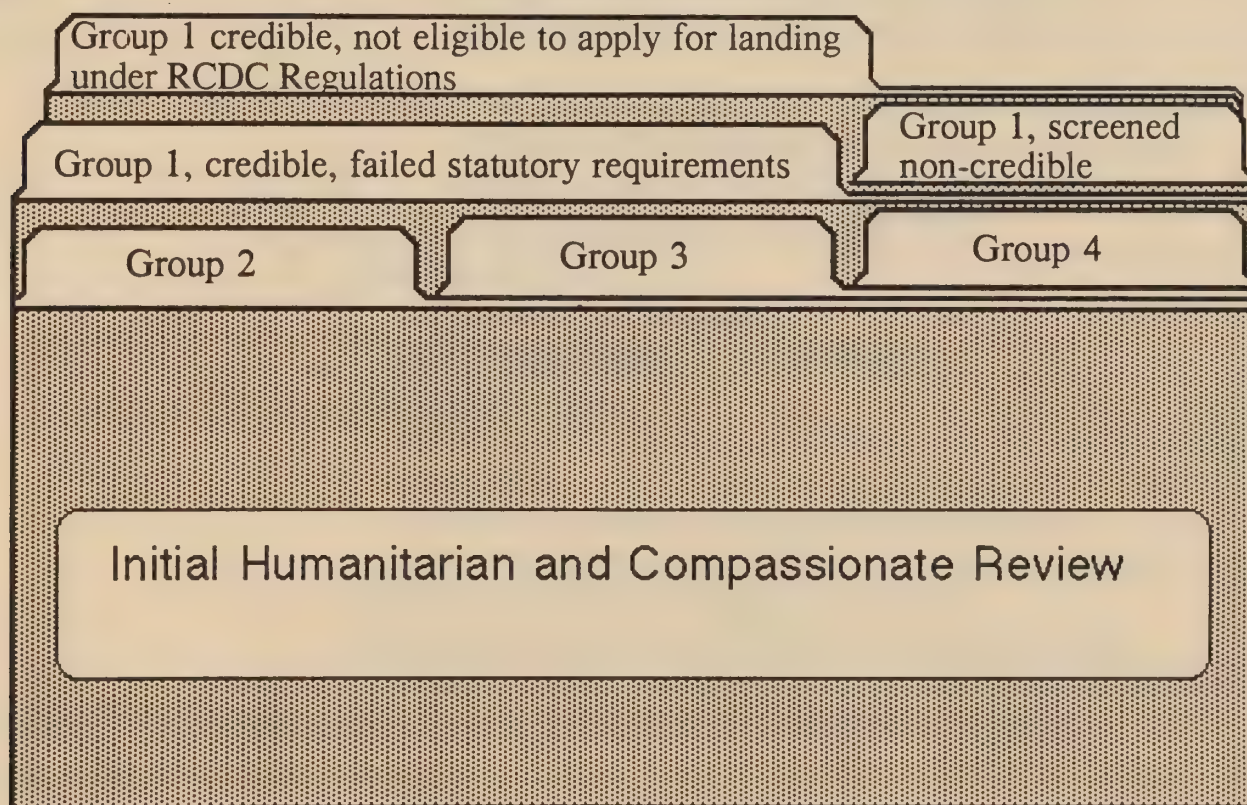
Description For everyone in Groups 2, 3 and 4, the initial Humanitarian and Compassionate review is the first step in deciding which claimants to accept.

Group 1 files have already been through Stage 1 processing at the RBRU. An initial Humanitarian and Compassionate review is held for the following Group 1 cases:

- Group 1 cases which are screened non-credible by the RBRU
- Group 1 cases which:
 - have a positive credible decision from the RBRU and
 - are ineligible to apply for landing under the RCDC Regulations
- Group 1 cases which:
 - have a positive credible decision from the RBRU and
 - have failed statutory requirements

Preview The next pages describe the initial H and C review procedures in detail.

Related Pages



Administrative procedures for an initial H and C review

Procedure Table

This page describes the administrative procedures for an initial H&C review. These procedures apply to all groups except where noted.

STEP	DESCRIPTION
1.	<ul style="list-style-type: none">• Enter basic data and other relevant information not already in COSS• For Group 4:<ul style="list-style-type: none">• Review the file to make sure there is some written record that shows the person intended to claim refugee status before Jan 1, 1989.• If there is no written record, remove the file from the backlog and send to the Enforcement CIC
2.	<ul style="list-style-type: none">• Send the person the appropriate Call-In Notice and forms:<ul style="list-style-type: none">• if the person is from a country listed in IC 1.22 (1)(b), use Appendix B3, and enclose:<ul style="list-style-type: none">• Personal Information Form (PIF)• Information Form• Supplementary B Form (where required)• if the person is from any other country, use Appendix B1 and enclose the same forms• if the person is Group 1, deemed credible and failed on Statutory Requirements, use Appendix D5 as outlined in the section of this manual entitled "Assessing Statutory Requirements"
3.	<p>Before the interview:</p> <ul style="list-style-type: none">• review the person's case• consider the H and C circumstances
4.	<p>At the interview:</p> <ul style="list-style-type: none">• ensure that the Information Form and PIF are properly completed• check the accuracy of the Information Form• make a decision based on H and C circumstances
5.	<p>Update COSS if your office uses COSS, OR complete the H and C Summary(Appendix B4)</p>

Related Pages

What to do when the initial H and C decision is negative, p. 67

Guidelines for the initial H and C review

Introduction	The application of humanitarian and compassionate considerations is discretionary. Guidelines are not intended as hard and fast rules but rather provide a framework for consistent, and therefore, fair decision making.	
Description	Guidelines will follow, pending the outcome of the court decision.	
Rules	<ul style="list-style-type: none">• It is important for officers to receive and consider all submissions.• Borderline cases should be given the benefit of the doubt.	
Related Pages		Related Material

How to process a positive initial H&C decision

Description	<p>When the initial H&C decision is positive, the officer must:</p> <ul style="list-style-type: none">• inform the person of the positive decision• provide additional forms required for the next major step in the process <p>To save time, these two steps are done together. The detailed procedures for processing positive initial H&C cases are found in the following sections of this manual:</p> <ul style="list-style-type: none">• Assessing statutory requirements (Stage 2)• Staying under a Minister's permit (Stage 3)
-------------	--

Related Pages

How to process a negative initial H and C decision

Procedure Table

This table describes what the officer does when the decision from the initial H and C review is negative.

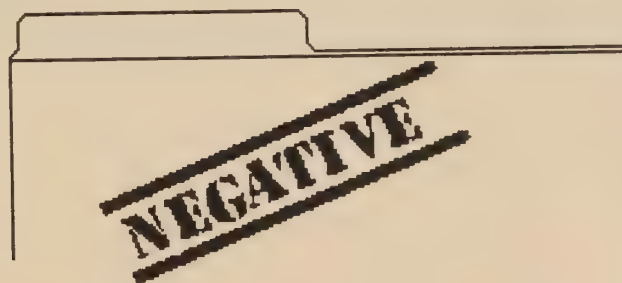
STEP	DESCRIPTION
1.	If the person is from a country listed in IC 1.22(1)(b), give the person a letter of refusal. <ul style="list-style-type: none">• For Groups 1, 2 and 3, use Appendix B5• For Group 4, use Appendix B6 If the person is not from a scheduled country, proceed to voluntary departure counselling which is described on p. 89 in this manual
2.	<ul style="list-style-type: none">• Remind the person of his/her right to counsel• Ask the person to sign an Acknowledgement of Right to Counsel (Appendix B11)
3.	Advise the person to obtain an up-to-date passport, if possible

Comment

- If possible, complete these procedures at the interview set up for the initial H and C review.
- If the person is clearly not willing to depart voluntarily, the officer should prepare the person for the panel hearing at the same interview. This includes making sure the PIF has been completed properly.
- Persons landed on H and C grounds must pay a processing fee of \$250. They usually send in the fee with their completed information forms for landing. Sometimes, they pay at the CIC.
- Additional procedures apply to persons with dependants.

Related Pages

After a negative initial H&C decision, p. 68
Voluntary departure counselling, pp. 88-98
Panel hearing, pp. 102-114



Forms used for the initial H and C review

Summary Table

This table lists the forms used for the initial H and C review.

WHEN	FORMS TO USE	APPENDIX	REFER TO
Before the initial H and C review	<ul style="list-style-type: none"> • One of: <ul style="list-style-type: none"> • Call-In Notice - H and C Review(General) • Call-In Notice - H and C Review (IC 1.22(1)(b) countries • Personal Information Form (PIF) • Information Form OM IC 60 • Supplementary B Form, if required 	<ul style="list-style-type: none"> • B1 & B2 • B3 	<p>p. 75-76</p> <p>p. 77</p>
After a positive decision	<ul style="list-style-type: none"> • Humanitarian and Compassionate Summary (if no COSS) 	<ul style="list-style-type: none"> • B4 	<p>p. 78</p>
After a negative decision	<ul style="list-style-type: none"> • Humanitarian and Compassionate Summary (if no COSS) • One of: <ul style="list-style-type: none"> • Letter of Refusal - H and C - Negative (IC 1.22(1)(b) countries) • Letter of Refusal - H and C - Negative (Group 4) (IC 1.22(1)(b) countries) • Acknowledgement of Right to Counsel 	<ul style="list-style-type: none"> • B4 • B5 • B6 • B8 	<p>p. 78</p> <p>p. 79</p> <p>p. 80</p> <p>p. 82</p>

Related Pages

What to do when a letter is returned “address unknown”

Introduction

There are times when a letter for a Humanitarian and Compassionate interview is mailed by the CIC and then returned by the post office marked “unknown at address”.

Procedure Table

This table describes what to do when a letter for a Humanitarian and Compassionate interview is returned undelivered by the post office.

STEP	DESCRIPTION
1.	Verify that the letter was mailed to the correct address.
2.	If letter was <u>not</u> addressed correctly, provide the correct address and re-issue the call-in notice for an H and C interview.
3.	<p>If the letter was correctly addressed:</p> <ul style="list-style-type: none">• investigate for a change of address or for alternate addresses. Use COSS where available.• refer the file to the investigation unit as follows:<ul style="list-style-type: none">• for offices with COSS:<ul style="list-style-type: none">• input information on the Investigation Referral Screen• obtain a print-out• send the file with the attached print-out to the investigation unit• for offices without COSS:<ul style="list-style-type: none">• complete the Backlog Case Referral to Investigation Unit form• send the file with the attached form to the investigation unit

Rule

The officer must complete the procedures within one day of receiving the returned letter.

Fact

- If the person is located, the investigation unit serves the person with a convocation letter for a panel/inquiry at a time agreed upon by the CIC and investigation unit.
- If the person is not located, the investigation unit conducts a complete investigation. This involves: making a personal call to the address; issuing a warrant for arrest; and, entering the information in the CPIC system.

Related Pages

Procedures for handling 'no-show' for an H&C interview

Procedure Table

This table describes what the officer does when a person does not show up for a H&C interview.

'NO-SHOW'	PROCEDURE	DONE BY
for H&C interview	Refer the file to investigation unit	Officer
	<ul style="list-style-type: none"> • If the person can be found, <u>hand</u> deliver a convocation letter for a panel/inquiry at a time agreed upon by the backlog and investigation offices • If the person can't be found or if the person doesn't appear: <ul style="list-style-type: none"> • conduct a complete investigation • issue a warrant for arrest • update the CPIC system 	Investigations
for H&C interview for persons from former B-1 countries holding Minister's permits	• Refer the file to investigation unit	Officer
	<ul style="list-style-type: none"> • If the person can be found, <u>hand</u> deliver a convocation letter for a panel/inquiry • If the person can't be found, return the file to the CIC 	Investigations
	<ul style="list-style-type: none"> • Receive the file back from investigations for those <u>not</u> located • Initiate procedures to cancel the permit and issue warrant 	Officer

Rule

The officer must send the file to the investigation unit within one day of the person not appearing. Complete and attach to the file:

- the COSS Investigation Referral Screen print-out OR
- the Backlog Case Referral to Investigation Unit form

Comment

The CIC will be informed about persons charged with criminal offences. Hold these cases in abeyance until informed by investigations about results. Then take appropriate action.

Related Pages

After a negative initial H and C review: The next major step

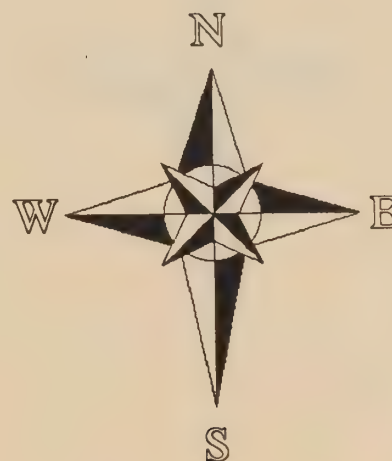
Description Table

This table summarizes the next step for the person after a NEGATIVE initial H and C review.

IF the person...	THEN...
<ul style="list-style-type: none">comes from an IC 1.22(1)(b) country	<ul style="list-style-type: none">a panel hearing is held for all of Groups 1, 2 and 3 and those in-status in Group 4an inquiry is held for Group 4 cases <u>not</u> in-status
<ul style="list-style-type: none">does <u>not</u> come from an IC 1.22(1)(b) country	<ul style="list-style-type: none">counsel the person regarding voluntary departure
<ul style="list-style-type: none">is in Group 1has positive credible decision from RBRU ANDhas failed statutory requirements OR is ineligible to apply for landing under the RCDC regulations	<ul style="list-style-type: none">the officer writes a report if there are new allegationsthe person proceeds to a CRDD hearing

Related Pages

Panel, pp. 102-114
Inquiry, pp. 173-181
Voluntary departure counselling, pp. 88-98
CRDD hearing, pp. 158-169



After a positive initial H and C review: The next major step

Description Table

This table summarizes the next step for the person after a POSITIVE initial H and C review.

IF THE PERSON...	THEN...
<ul style="list-style-type: none">• is in Group 1• has positive credible decision from RBRU• and then has failed statutory requirements	<ul style="list-style-type: none">• a Minister's permit should be recommended• if no permit, the person proceeds to a CRDD hearing
<ul style="list-style-type: none">• is in Group 1 and has positive credible decision from RBRU AND is ineligible to apply for landing under the RCDC regulations• Group 2• Group 3• Group 4• the rest of Group 1	<ul style="list-style-type: none">• the officer should process the application for landing by O-I-C waiver

Related Pages

Allowing a person to remain under a Minister's permit, p. 244
CRDD hearing, pp. 158-169
How to land persons on H&C grounds, p. 237

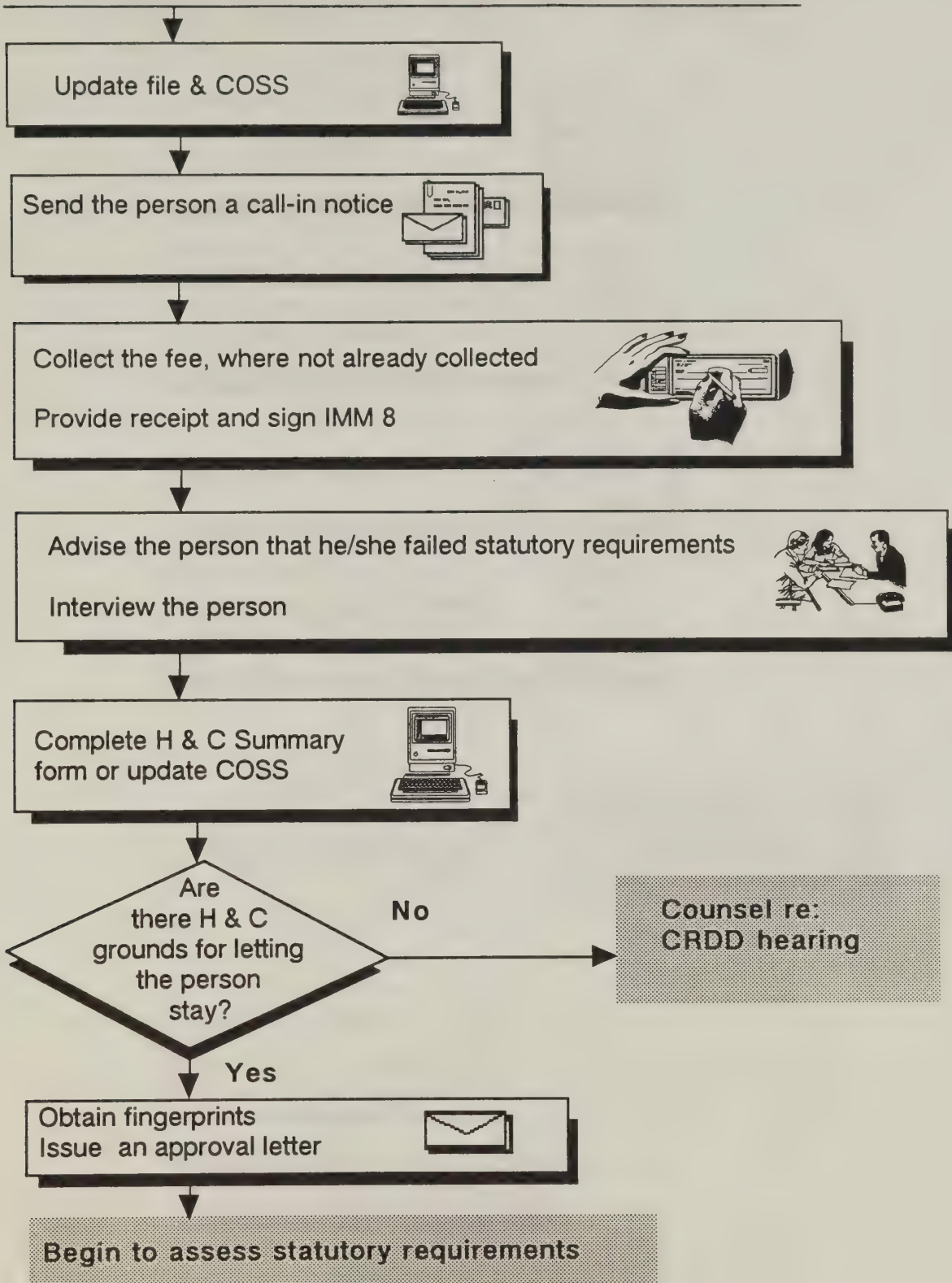


Spare

Spare

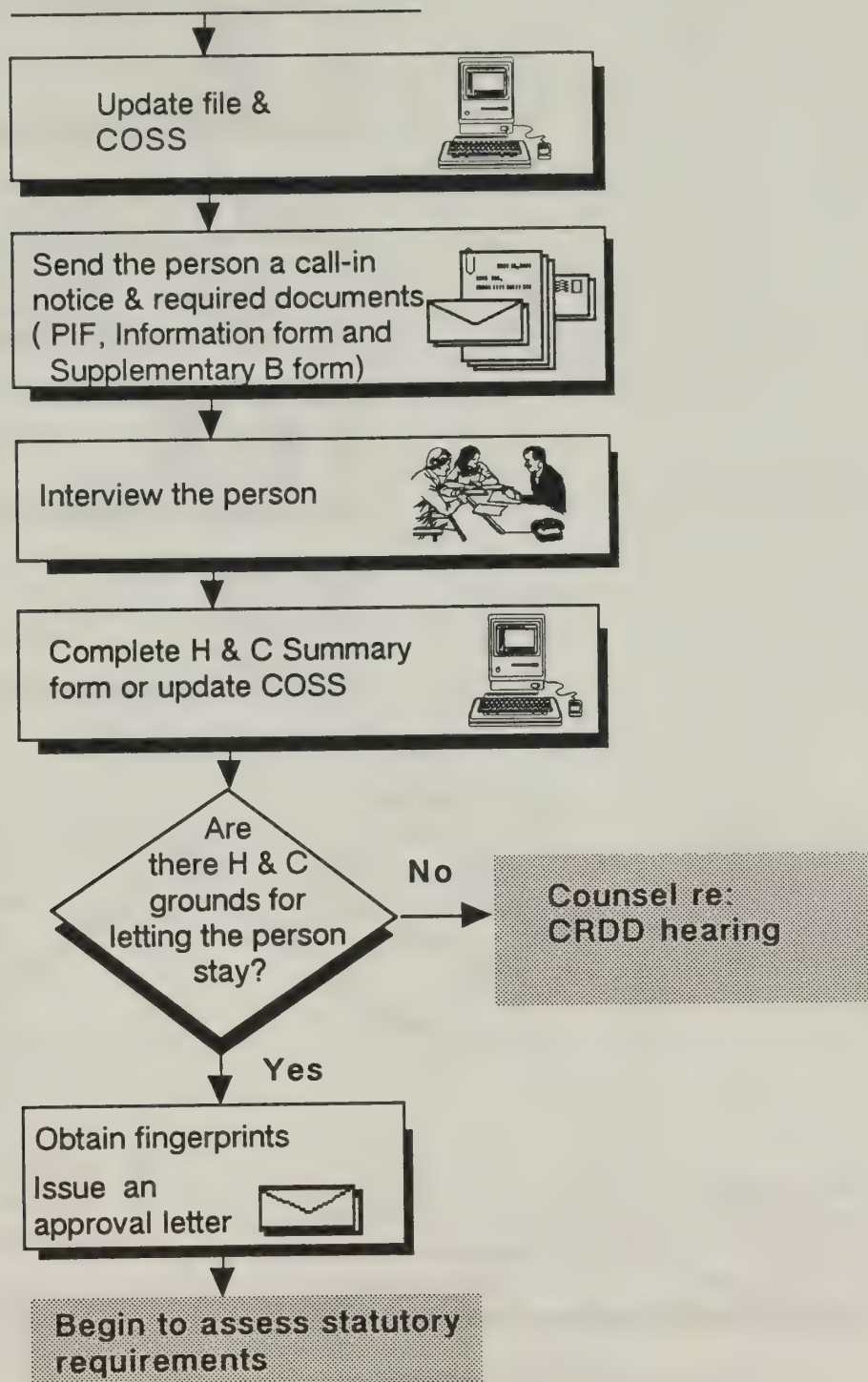
Flowchart for Initial H and C review--Group 1, Credible and failed statutory requirements

Group 1 cases found credible by RBRU, failed statutory requirements



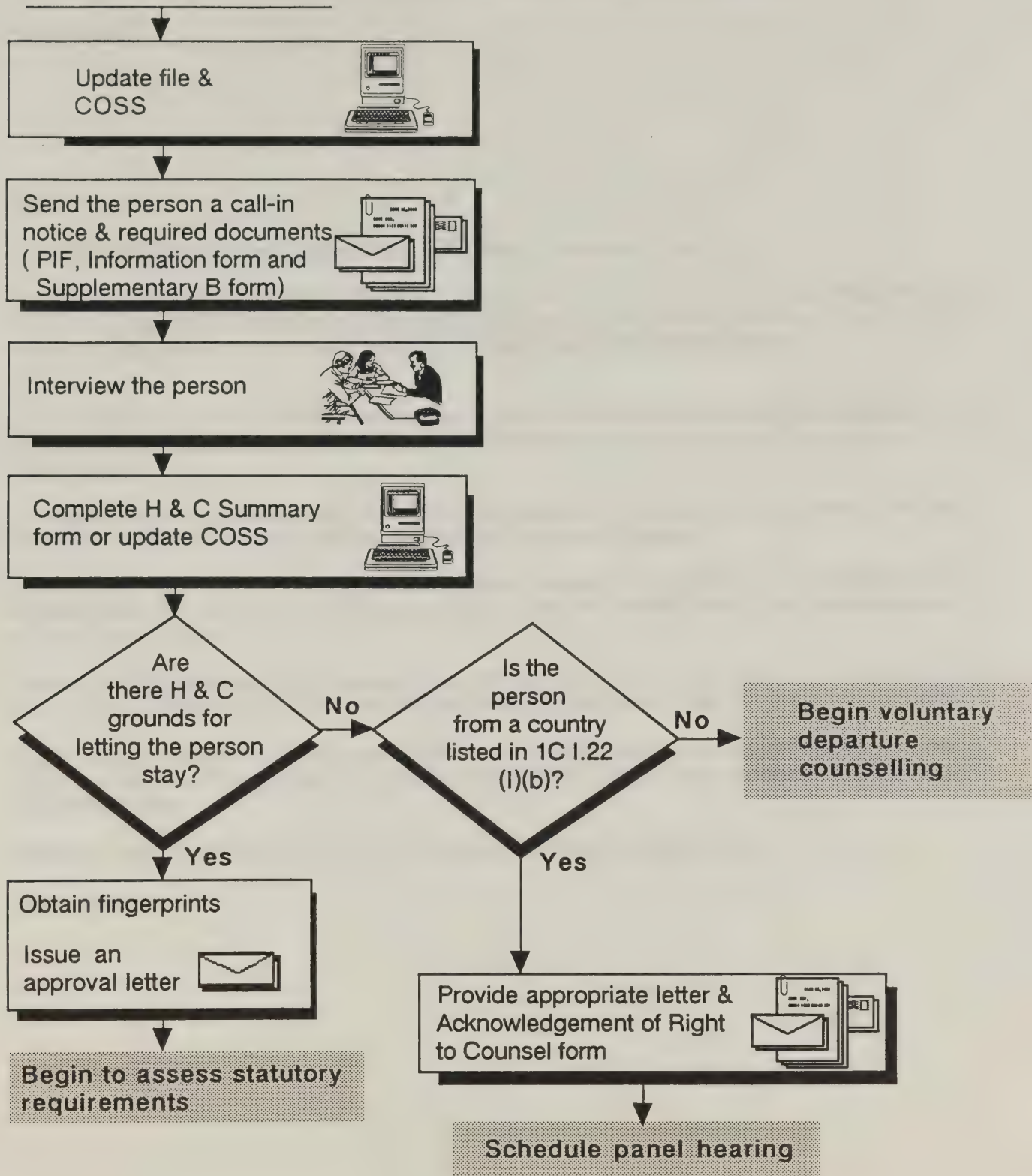
Flowchart for Initial H and C review--Group 1 found Credible by RBRU, not eligible to apply for landing under RCDC Regulations

Group 1 cases found credible by RBRU,
not eligible to apply for landing under RCDC Regulations



Flowchart for Initial H and C review--Groups 2-4, and Group 1, screened Non-Credible

Groups 2, 3, and 4 and Group 1 cases screened non-credible by RBRU



B1: Call-in Notice - Humanitarian and Compassionate Review (General)

CIC File No.: _____

Dear

This letter refers to your immigration status in Canada. Please read it carefully.

You are requested to attend an interview on _____ at _____. An immigration officer will review your case to determine whether sufficient humanitarian and compassionate reasons exist to process an application for permanent residence on your behalf from within Canada.

If you feel that your case deserves consideration in light of humanitarian and compassionate grounds, you are invited to prepare the reasons in writing and submit them to the immigration officer when you come to the interview.

If this initial review is unsuccessful you will have the option of departing Canada voluntarily or being scheduled for an oral hearing. Attached are details of voluntary departure.

If you choose to have an oral hearing and the decision is negative, you may become the subject of a departure notice or removal order. Persons in this situation will benefit from a final humanitarian and compassionate review.

Please complete the enclosed Information Form and bring it with you to your interview. This form will be used for a background check. You may be asked to be fingerprinted so that this check can be completed.

Finally, the enclosed Personal Information Form is required by the Convention Refugee Determination Division at the panel hearing, should you choose that option. Please complete it and bring it with you to the initial interview.

Please advise this office immediately if you are unable to keep this appointment.

Yours sincerely,

Immigration Officer

B2: Voluntary Departure Details

Attachment:

Rather than pursue a refugee claim in Canada you may take voluntary departure to submit an application for permanent residence through a visa office in the normal manner. You will be given a letter which, upon presentation will assure you of an interview by a visa officer abroad. However, the interview in no way guarantees that an immigrant visa will be issued, nor is it a promise of priority processing.

Your Canadian experience will be taken into consideration when assessing this application for permanent residence.

Should you wish to exercise this option, additional counselling will be available at the time of your interview.

B3: Call-in Notice - Humanitarian and Compassionate Review (IC 1.22(1)(B) countries)

CIC File No.: _____

Dear

This letter refers to your immigration status in Canada. Please read it carefully.

You are requested to attend an interview on _____ at _____. An immigration officer will review your case to determine whether sufficient humanitarian and compassionate reasons exist to process an application for permanent residence on your behalf from within Canada.

If this initial review is unsuccessful, you will be scheduled for an oral hearing.

If the decision at the oral hearing is negative, you may become the subject of a departure notice or removal order. Persons in this situation will benefit from a final humanitarian and compassionate review.

If you feel that your case deserves consideration in light of humanitarian and compassionate grounds, you are invited to prepare the reasons in writing and submit them to the immigration officer when you come to the interview.

Please complete the enclosed Information Form and bring it with you to your interview. This form will be used for a background check. You may be asked to be fingerprinted so that this check can be completed.

Finally, the enclosed Personal Information Form is required by the Convention Refugee Determination Division at the panel hearing. Please complete it and bring it with you to the initial interview.

Please advise this office immediately if you are unable to keep this appointment.

Yours sincerely,

Immigration Officer

B4 - Humanitarian and Compassionate Summary form

HUMANITARIAN AND COMPASSIONATE SUMMARY

APPENDIX E

I CIC FILE _____ HQ FILE _____
NAME _____ SEX _____
DATE OF BIRTH _____ PLACE OF BIRTH _____ CITIZENSHIP _____ MARITAL STATUS _____
DEPENDANTS: IN CANADA - SPOUSE: _____ OTHER: _____ ABROAD (COUNTRY): _____
FAMILY CLASS RELATIVE IN CANADA (SPECIFY) _____ ABROAD (COUNTRY): _____
PRESENT OCCUPATION _____ LENGTH OF EMPLOYMENT _____

II HUMANITARIAN AND COMPASSIONATE CONSIDERATIONS:

RATIONALE: _____

INITIAL REVIEW DECISION:

☐ APPROVE

☐ REFUSE

DATE _____

IMMIGRATION OFFICER _____

III POST INQUIRY REMARKS:

☐ DETAINED

☐ DEPARTURE NOTICE/EXPIRATION DATE _____

REMOVAL TO (COUNTRY) _____

ATTACHED: CLAIMANT'S SUBMISSION(S) ☐

PIF ☐

PANEL/CRDO DECISION(S) ☐

DEPENDANT'S PASSPORT DETAILS ☐

OTHER ☐

DATE _____

CIC OFFICER _____

IV RBRU PRE-REMOVAL REVIEW CONSIDERATIONS:

RECOMMENDATION:

☐ APPROVE

☐ REFUSE

☐ TEMPORARILY DELAY REMOVAL

RATIONALE: _____

DATE _____

RBRU OFFICER _____

V PRE-REMOVAL REVIEW DECISION: ☐ APPROVE

☐ REFUSE

DATE _____

MINISTERIAL DELEGATE _____

DATE CIC NOTIFIED _____

B5: Letter of Refusal - H&C Negative (IC 1.22(1)(B) countries)

Dear

This refers to your recent interview regarding your immigration status in Canada. Your case has been reviewed, and it has been determined that there are insufficient humanitarian and compassionate grounds upon which to accept an application for permanent residence.

As you have made a claim to refugee status in Canada, you have a right to an oral hearing before a member of the Immigration Refugee Board and an adjudicator who will determine whether there is a credible basis for a claim to refugee status.

Please advise this office immediately if you change your address.

Yours sincerely,

Immigration Officer

B6: Letter of Refusal - H&C - Group 4 (IC 1.22(1)(B) countries)

Dear

This refers to your recent interview regarding your immigration status in Canada. Your case has been reviewed, and it has been determined that there are insufficient humanitarian and compassionate grounds upon which to accept an application for permanent residence.

You will now proceed to an Immigration inquiry. At the inquiry, your claim to refugee status in Canada will be heard by a member of the Convention Refugee Determination Division and an adjudicator. They will determine if you have a credible basis for a claim to refugee status. If this decision is negative, you may become the subject of a departure notice or removal order.

If you change your address, please advise this office immediately.

Yours sincerely,

Immigration Officer
Canada Immigration Centre

B7: Letter of Refusal - H&C Negative (Group 1 found credible at RBRU, failed statutory requirements)

Dear

This refers to your recent interview regarding your immigration status in Canada. Your case has been reviewed, and it has been determined that there are insufficient humanitarian and compassionate grounds upon which to accept an application for permanent residence.

Since you were found to have a credible basis for a claim to refugee status, you will be scheduled for a full hearing of your claim before the Convention Refugee Determination Division of the Immigration and Refugee Board.

If you change your address, please advise this office immediately.

Yours sincerely,

Immigration Officer

B8: Acknowledgement of Right to Counsel

This is to acknowledge that I have been counselled concerning the commencement/resumption of my inquiry/hearing and my right to counsel.

I understand that I have the right to be represented by counsel at an Immigration Inquiry/Hearing.

Further, I understand that if I wish to be represented by counsel, my counsel must be present for the inquiry/hearing and be prepared to proceed on all issues. This includes the credibility of my claim to refugee status. Counsel need not necessarily be a lawyer. It may be any person, organization or society interested in my welfare.

Should my counsel not be prepared to proceed on the date scheduled for the commencement/resumption of my inquiry/hearing, I will contact the responsible immigration office immediately so that another date can be arranged.

Signed _____

Date _____

Interpreted by _____

Date _____

B9: COSS Data Input Form

C.O.S.S. DATA INPUT FORM

FORMULAIRES D'ENTRÉE DES DONNÉES S.S.O.I.

When form completed please send copy 3 to NHQ
Une fois le formulaire rempli, veuillez envoyer la copie 3 à l'AC

Region / Région		CIC	FOSS ID / ID (SSOBL)	
File No. / Dossier n°		Group / Groupe	Citizenship / Citoyenneté	
Surname / Nom		Name / Prénoms	Date of birth / Date de naissance	
Sex / Sexe <input type="checkbox"/> M <input type="checkbox"/> F	No. of dependents in Canada Nbre de personnes à charge au Canada	Date of arrival / Date d'arrivée	Port of Entry / Point d'entrée	

INITIAL HUMANITARIAN AND COMPASSIONATE REVIEW
When this part is completed please send copy 1 to NHQ

EXAMEN INITIAL DES CONSIDÉRATIONS HUMAINES
Une fois cette partie remplie, veuillez envoyer la copie 1 à l'AC

Call-in notice sent on / Avis de convocation envoyé le	Returned by P.O. on / Renvoyé par le B.P. le
Date of interview / Date de l'entrevue <input type="checkbox"/> No show / Ne s'est pas présentée	Result of interview / Résultat de l'entrevue
Reason / Motif	

Voluntary departure / Départ volontaire	Date confirmed / Confirmé le
Not eligible as backlog designated class - reason(s) / Non admissible - dans la catégorie désignée des demandeurs dont la revendication fait partie de l'arrière motif(s)	

PANEL HEARING AND INQUIRY
When this part is completed please send copy 2 to NHQ

AUDIENCE ET ENQUÊTE
Une fois cette partie remplie, veuillez envoyer la copie 2 à l'AC

Date of hearing / Date de l'audience	Eligibility / Recevabilité <input type="checkbox"/> Yes / Oui <input type="checkbox"/> No / Non	Credibility / Minimum de fondement <input type="checkbox"/> Yes / Oui <input type="checkbox"/> No / Non
Order / Notice Ordonnance / Avis	Type / Genre	Date
Requested full CRDD hearing / Audience devant la SSR <input type="checkbox"/> Yes / Oui <input type="checkbox"/> No / Non	File sent to NHQ for Pre-removal H & C / Pour examen des considérations humanitaires avant le renvoi, dossier envoyé à l'AC le	

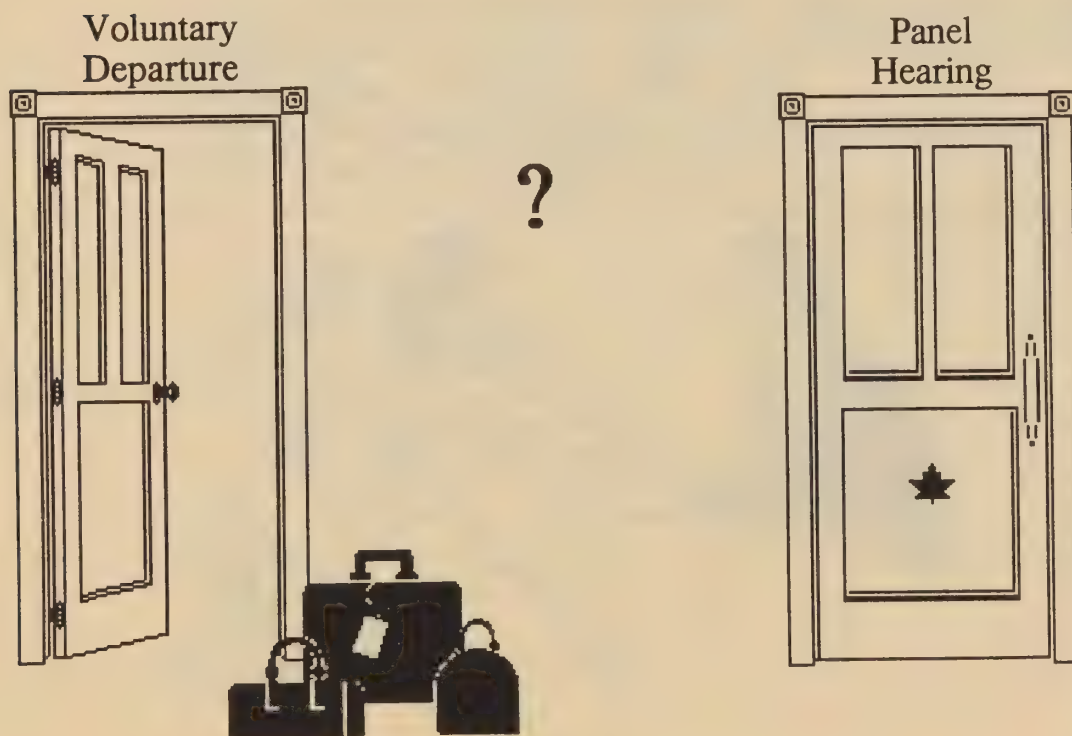
PROCESS / FORMALITÉS	Date	Date
IMM 8 sent on / IMM 8 envoyée le		Returned by P.O. / Renvoyé par le B.P.
Medical inst. issued on / Instructions médicales envoyées le		Results rec'd. on / Résultats reçus le
Criminal check sent on / Vérifications judiciaires - demande envoyée le		Results rec'd. on / Résultats reçus le
Security check sent on / Vérifications sécuritaires - demande envoyée le		Results rec'd. on / Résultats reçus le
Date sent for CRDD hearing / Envoyé à l'audience du SSR le		OIC requested on / Décret du conseil demandé le
Landing / POE / Etablissement / Point d'entrée		Landed on / Droit d'établissement octroyé le
Failed any stats. requirements? / Exigences statutaires non remplies?		

Stage 2: Deciding which claimants to accept

Voluntary Departure Counselling

Table of Contents

	Page #
Voluntary Departure Counselling.....	88
Who receives counselling for the voluntary departure option?	89
How to counsel persons concerning the voluntary departure option.....	90
What does the officer do after the voluntary departure counselling?.....	91
Spare.....	92
Spare.....	93
Spare.....	94
Flowchart for Voluntary Departure Counselling	95
C1: Letter of Refusal - H&C Negative (General).....	96
C2: Letter of Refusal - H&C - Group 4 (General).....	97
C3: Acknowledgement of Right to Counsel.....	98
C4: Spare.....	99
C5: Spare.....	100
C6: Spare.....	101



Who receives counselling for the voluntary departure option?

Summary Table

This table describes the persons who receive counselling for the voluntary departure option.

GROUP	DESCRIPTION
Group 1	<ul style="list-style-type: none">• are screened non-credible by the RBRU and• receive a negative decision at the initial humanitarian and compassionate review and• are <u>not</u> from an IC 1.22(1)(b) country
Group 2	<ul style="list-style-type: none">• receive a negative decision at the initial humanitarian and compassionate review and
3	
4	<ul style="list-style-type: none">• are <u>not</u> from an IC 1.22(1)(b) country

Description

During the counselling, the officer gives advice about the two options available:

- they may depart from Canada voluntarily and apply for immigration from abroad

OR

- they may stay in Canada and proceed to a panel hearing to determine if their refugee claim is credible.

Rules

- If a panel hearing has been opened, then a letter of introduction for an interview with a visa officer abroad is not an option.
- Do not offer the voluntary departure option to persons from countries referred to in IC 1.22 (1) (b) unless they are subjects of Undertakings of Assistance (IMM 1344).
- Provide independent applicants from these countries with information about the panel hearing.

Related Pages



How to counsel persons concerning the voluntary departure option

Decision Table

This table states what the officer needs to tell persons about the implications of choosing or not choosing voluntary departure .

CHOICE	IMPLICATIONS
To depart voluntarily	<ul style="list-style-type: none">• their refugee claim is withdrawn• they must apply abroad for immigrant status in the usual way; the application will be processed according to regulations at that time• there is <u>no</u> guarantee that a visa will be issued or that priority processing will occur• they get a letter of introduction which guarantees an interview with a visa officer abroad• they get a voluntary departure checklist of suggested documents which can provide evidence of the person's establishment in Canada;• the results of a medical examination undertaken and passed in Canada will be telexed to the visa office from the CIC• the results of security and criminal checks initiated in Canada will be telexed directly to the visa offices abroad
<u>Not</u> to take the voluntary departure option	<ul style="list-style-type: none">• they will be given a panel hearing to assess the credibility of their claim• for Group 1, the CIC usually contests the claim at the panel hearing• a letter of introduction will <u>not</u> be given after the panel hearing has opened• they may face removal from Canada if they are unsuccessful under the backlog clearance program; they would be unable to return to Canada unless they received consent from the Minister

Comment

The officer should also tell persons that if they choose to depart voluntarily and have not obtained medical, security and criminal clearances in Canada, the visa office will initiate these checks when they apply. In these cases, persons are wise to obtain criminal check certificates from police agencies where they resided in Canada to take with them when they leave Canada.

Related Pages

Voluntary departure, pp. 258-269

What does the officer do after the voluntary departure counselling?

Summary Table

This table summarizes what the officer does after providing voluntary departure counselling. The table also tells where to find information for the next step.

IF THE DECISION IS...	THEN THE OFFICER BEGINS...	REFER TO
To depart voluntarily	voluntary departure procedures	Stage 3, Voluntary departure: Initial procedures, p. 259
Not to depart voluntarily	<ul style="list-style-type: none">• a panel hearing for Groups 1, 2 and 3• an inquiry for Group 4	<ul style="list-style-type: none">• Stage 2, When a panel hearing is conducted, p. 102• Stage 2, Inquiry, p. 173

Related Pages



Spare

Flowchart for Voluntary Departure Counselling

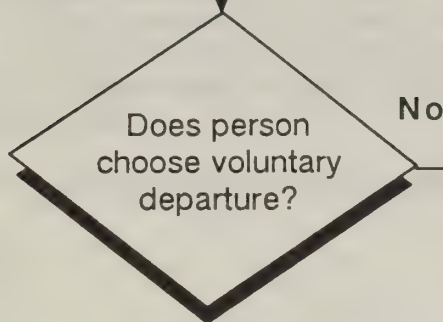
Group 1

- screened NON-CREDIBLE
- no initial H&C grounds
- not from a scheduled country

Groups 2, 3, 4

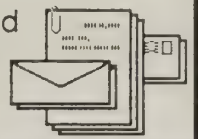
- no initial H&C grounds
- not from a scheduled country

Counsel re: options:
- voluntary departure
- panel hearing/inquiry



No

Provide appropriate letter and Acknowledgement of Right to Counsel form



Yes

Begin Panel hearing for Groups 1, 2, 3

Begin Inquiry for Group 4

Begin Stage 3- Voluntary Departure

C1: Letter of Refusal - H&C Negative (General)

Dear

This refers to your recent interview regarding your immigration status in Canada. Your case has been reviewed, and it has been determined that there are insufficient humanitarian and compassionate grounds upon which to accept an application for permanent residence.

As discussed at your interview, you may depart Canada voluntarily and submit an application for permanent residence to a visa officer abroad. If you choose this course of action you will be provided with a letter of introduction which will ensure that you are interviewed by a visa officer. Alternatively, as you have made a claim to refugee status in Canada, you have a right to an oral hearing before a member of the Immigration Refugee Board and an adjudicator who will determine whether there is a credible basis for a claim to refugee status.

Please advise this office immediately if you change your address.

Yours sincerely,

Immigration Officer

C2: Letter of Refusal - H&C - Group 4 (General)

Dear

This refers to your recent interview regarding your immigration status in Canada. Your case has been reviewed, and it has been determined that there are insufficient humanitarian and compassionate grounds upon which to accept an application for permanent residence.

As discussed at your interview, you may depart Canada voluntarily and submit an application for permanent residence to a visa officer abroad. If you choose this course of action, you will be provided with a letter of introduction which will ensure that you are interviewed by a visa officer.

Since you indicated that you did not wish to choose this course of action, your case will proceed to an Immigration inquiry. At the inquiry, your claim to refugee status in Canada will be heard by a member of the Convention Refugee Determination Division and an adjudicator. They will determine if you have a credible basis for a claim to refugee status. If this decision is negative, you may become the subject of a departure notice or removal order.

If you change your address, please advise this office immediately.

Yours sincerely,

Immigration Officer
Canada Immigration Centre

C3: Acknowledgement of Right to Counsel

This is to acknowledge that I have been counselled concerning the commencement/resumption of my inquiry/hearing and my right to counsel.

I understand that I have the right to be represented by counsel at an Immigration Inquiry/Hearing.

Further, I understand that if I wish to be represented by counsel, my counsel must be present for the inquiry/hearing and be prepared to proceed on all issues. This includes the credibility of my claim to refugee status. Counsel need not necessarily be a lawyer. It may be any person, organization or society interested in my welfare.

Should my counsel not be prepared to proceed on the date scheduled for the commencement/resumption of my inquiry/hearing, I will contact the responsible immigration office immediately so that another date can be arranged.

Signed _____

Date _____

Interpreted by _____

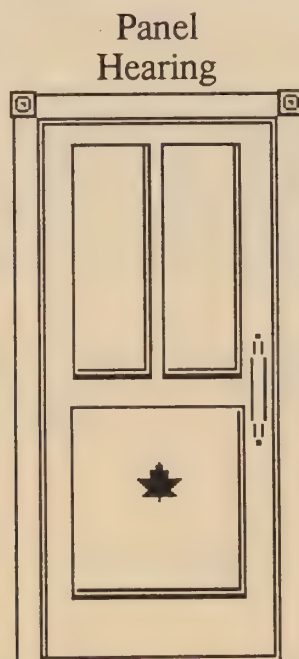
Date _____

Stage 2: Deciding which claimants to accept

Panel hearing

Table of Contents

	Page #
Panel hearing	102
Who gets a panel hearing in Stage 2?.....	103
How the officer prepares for a panel hearing	104
How to extend a Minister's permit	105
Procedures for handling 'no-show' at a panel hearing or inquiry	106
What has been added to the file at this point?	107
What happens after the panel hearing?.....	108
Spare.....	109
Spare.....	110
Spare.....	111
Flowcharts for Panel Hearing--Groups 1 and 3	112
Flowcharts for Panel Hearing--Group 2	113
D1: Call -in Notice - Panel Hearing/Inquiry Resumption (Group 1 and 3).....	114
D2: Spare	115
D3: Spare	116
D4: Spare	117



Who gets a panel hearing in Stage 2?

Definition

A Panel Hearing is an oral hearing that:

- is ruled on by an adjudicator and a member of the CRDD
- AND
- determines whether a person's claim has a credible basis

Summary Table

The following cases in each group receive a panel hearing in Stage 2.

GROUP	DESCRIPTION
1	<ul style="list-style-type: none">• screened non-credible by the RBRU• receive a negative decision at the initial H & C review• refuse to leave voluntarily or are from an IC 1.22 (1)(b) country
	<ul style="list-style-type: none">• screened non-credible by the RBRU• receive a positive decision at the initial H & C review• do not meet the statutory requirements• are not issued a Minister's Permit
2 and 3	<ul style="list-style-type: none">• receive a negative decision at the initial H & C review• refuse to leave voluntarily or are from an IC 1.22 (1)(b) country
	<ul style="list-style-type: none">• receive a positive decision at the initial H & C review• do not meet the statutory requirements• are not issued a Minister's Permit
4.	<ul style="list-style-type: none">• are in-status claimants• receive a negative decision at the initial H & C review• refuse to leave voluntarily or are from an IC 1.22 (1)(b) country

Facts

- Except for in-status claimants, persons in Group 4 do **not** have a separate panel hearing; instead, they proceed to an inquiry which determines whether the claim has a credible basis.
- Persons in Group 1 who were found credible had their ruling from an Adjudicator and a CRDD member in Stage 1, at the RBRU.

Related Pages

How the officer prepares for a panel hearing, p. 104
Inquiry, pp. 173-181

How the officer prepares for a panel hearing

Procedure Table

This table describes how the officer prepares for a panel hearing.

STEP	DESCRIPTION
1.	<ul style="list-style-type: none">• For persons in Group 2, extend Minister's permit, if applicable IMM 1264• For in-status claimants in Group 4, extend valid visitor's authorizations for a period of one year, subject to the normal visitor requirements, to allow processing of their applications
2.	Counsel the person on the panel process
3.	Arrange scheduling
4.	Complete a Case Claim Highlights Form
5.	Advise the SIO to cause a hearing to be held before an adjudicator and CRDD member
6.	Give the person a letter which states the date and place of the panel hearing(Appendix D1)
7.	Update COSS

Related Pages

D1--Call-in Notice - Panel Hearing/Inquiry Resumption, p.114
How to extend a Minister's permit, p. 105

How to extend a Minister's permit

Rules

A person must have a valid Minister's permit or valid visitor status to be heard by the Adjudicator and CRDD member at the panel hearing.

An expired Minister's permit may be extended, unless a removal order has been made or a departure notice has been issued.

Description

The permit is extended in the normal manner with the date of issue reflecting the current date.

Do **not** code the permit "B89" because it is not a finalized case.

Comment

The History Processing module of FOSS has removed a number of Minister's permits from the FOSS system.

If the officer performs a FOSS "Name Query" and discovers that the original Minister's permit for the client is not showing on FOSS, the officer should complete a hand-written IMM 1264. No FOSS entry of the IMM 1264 is necessary.

The officer should send the IMM 1264 to FOSS Division, NHQ, to the attention of Nora Flynn. FOSS Division will complete the required procedures.

If the original Minister's permit still exists on FOSS, follow the normal procedures for FOSS input.

Related Pages

Procedures for handling 'no-show' at a panel hearing or inquiry

Procedure Table

This table describes the procedures used when a person does not show up for a panel hearing or inquiry.

STEP	PROCEDURE	DONE BY
1.	Refer the file to Investigation unit	Officer
2.	Obtain a warrant	Investigations
3.	Update the CPIC system	
4.	Proceed as for any no-show for an inquiry.	

Rule

The officer must send the file to the investigation unit within one day of the person's not appearing. Complete and attach to the file:

- the COSS Investigation Referral Screen print-out OR
- the Backlog Case Referral to Investigation Unit form

Comment

The CIC will be informed about persons charged with criminal offences. Hold these cases in abeyance until informed by investigations about results. Then take appropriate action.

Related Pages

What has been added to the file at this point?

Checklist

The following forms are added to the file.

FORM	
Case Claim Highlights form	√
Appendix D1	
IMM 1264, if necessary	
a record of the decision of the panel	

Related Pages



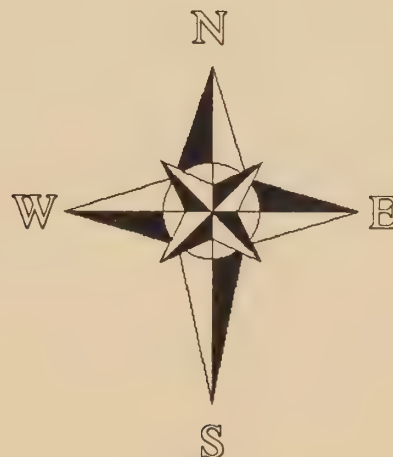
What happens after the panel hearing?

Summary Table

This table summarizes what happens as a result of decisions made at the panel hearing

DECISION OF PANEL	GROUP	ACTION	REFER TO
Credible	1, 2, 3 and 4 In-status	The officer determines if the person is eligible to apply for landing under RCDC regulations	pp. 118- 131
Not Credible	1 and 3	The SIO causes the inquiry to be resumed. This may lead to a pre-removal H and C review	pp. 185- 194
	2	The officer reviews the file to see if there are grounds for a Section 27 report	p. 164
	4 In-status	The CPO notifies the CIC of the decision. The processing of this type of claim under the Backlog Clearance procedures ceases at this point.	

Related Pages



Spare

Spare

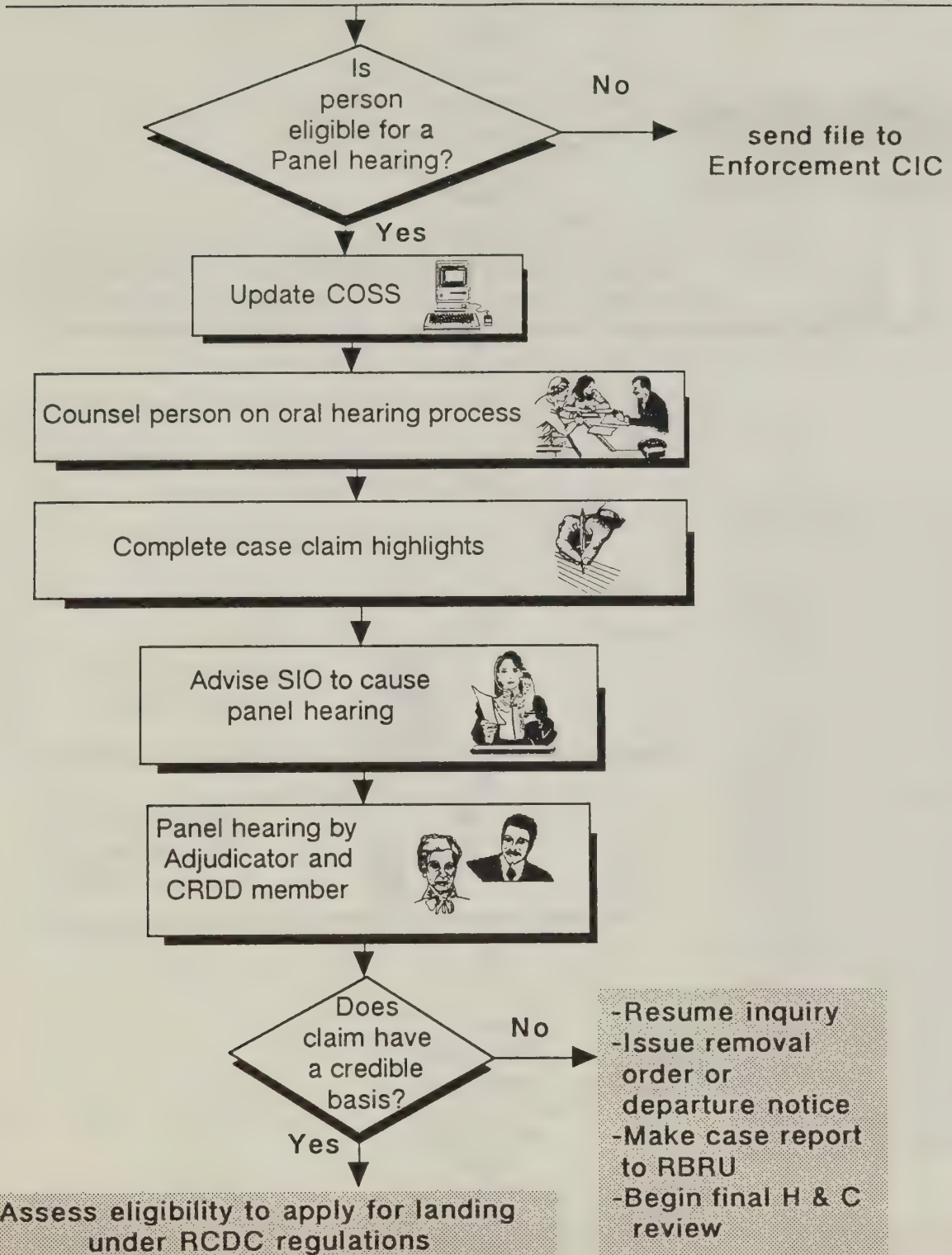
Flowcharts for Panel Hearing--Groups 1 and 3

Group 1- screened non credible

- no initial H&C grounds
- from a scheduled country OR
- not from a scheduled country

Group 3

- no initial H&C grounds
 - from a scheduled country OR
 - not from a scheduled country
- and not choosing voluntary departure



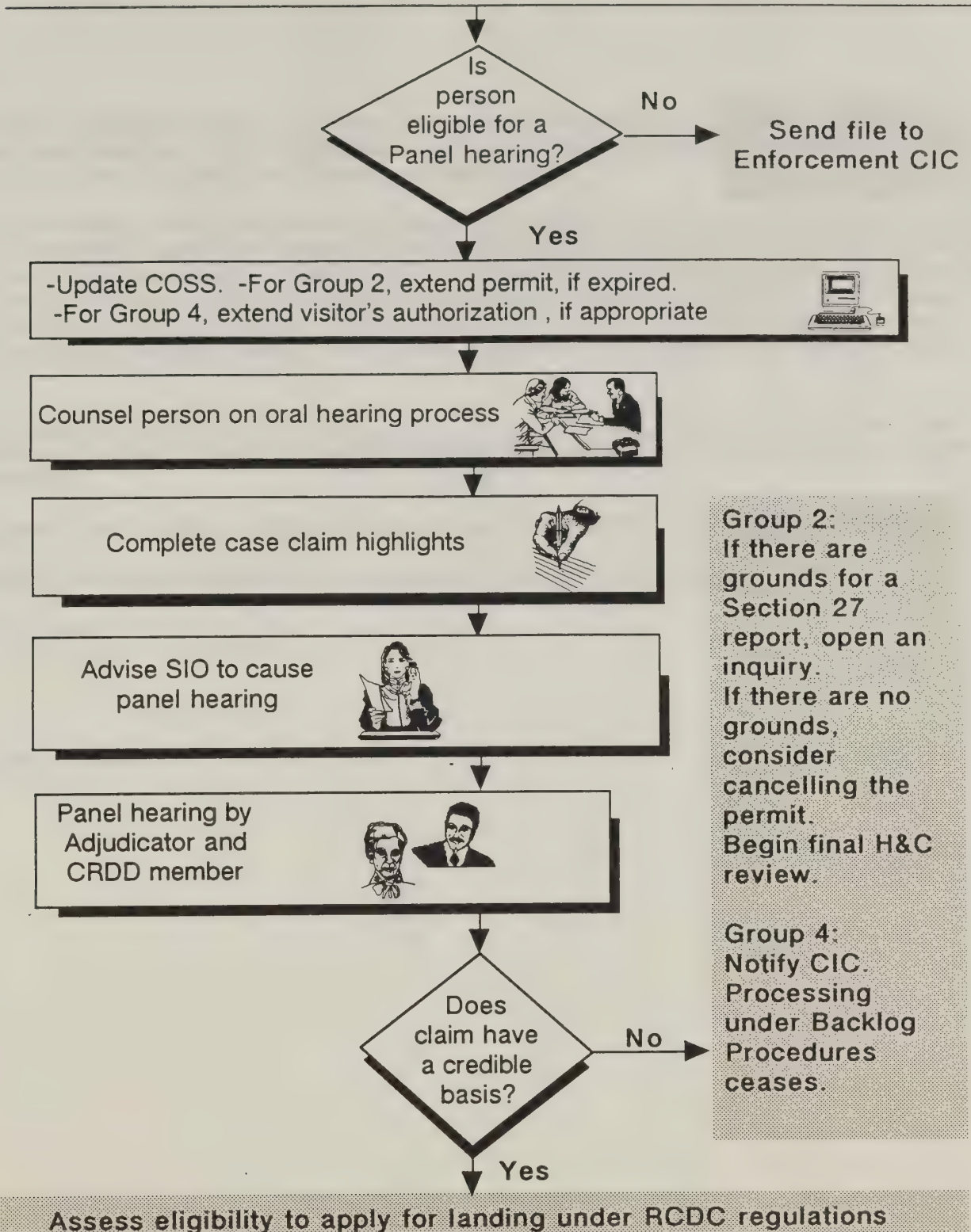
Flowcharts for Panel Hearing--Group 2

Group 2 -no initial H&C grounds

- from a scheduled country OR
- not from a scheduled country and not choosing voluntary departure

Group 4 - in-status

- negative initial H&C
- not departing voluntarily OR from a scheduled country



D1: Call -in Notice - Panel Hearing/Inquiry Resumption (Groups 1 and 3)

CIC File No.: _____

Dear

This refers to your recent interview regarding your immigration status in Canada. Your case has been reviewed, and it has been determined that there are insufficient humanitarian and compassionate grounds upon which to accept an application for permanent residence.

As you have made a claim to refugee status in Canada, you have a right to an oral hearing before a member of the Convention Refugee Determination Division and an adjudicator who will determine whether there is a credible basis for your claim to refugee status. Persons in the refugee backlog whose claims are found to have a credible basis may be eligible to apply for permanent residence from within Canada. However, if the adjudicator and member determine that your claim has no credible basis, your inquiry will resume immediately after your panel hearing. You may then become the subject of a departure notice or removal order.

Your hearing has been scheduled for _____ at _____. Should you wish to be represented by counsel at your panel hearing and your inquiry, your counsel must accompany you on this date.

Your counsel must be fully prepared to address all issues and to conclude the inquiry, if required.

Please advise this office immediately if you are unable to appear for your hearing.

Yours sincerely,

Immigration officer

Stage 2: Deciding which claimants to accept

Eligibility to apply for landing under RCDC Regulations

Table of Contents

	Page #
Eligibility to apply for landing under RCDC Regulations.....	118
Assessing eligibility to apply for landing: Introduction.....	119
Who should be assessed for eligibility to apply for landing under the RCDC Regulations?	120
Persons not eligible to apply for landing under RCDC Regulations.....	121
What to do next, when a person is eligible to apply for landing under the RCDC Regulations	122
What to do next, when a person is ineligible to apply for landing under the RCDC Regulations	123
Spare.....	124
Spare.....	125
Spare.....	126
Flowchart--Assessing eligibility to apply for landing under RCDC Regulations--Group 1 credible at RBRU.....	127
Flowchart--Assessing eligibility to apply for landing under RCDC Regulations--Groups 2, 3, 4	128
E1: Approval Letter - Credible Basis - Transcript Cases.....	129
E2: Approval Letter - Oral Hearing for Credible Basis	130
E3: Letter of Refusal - Credible Basis - Ineligible to apply	131
E4: Spare.....	132
E5: Spare.....	133
E6: Spare.....	134

Assessing eligibility to apply for landing: Introduction

Introduction	Persons in the refugee claims backlog whose claims are found to have a credible basis by the RBRU, at a Stage 2 panel hearing or at an inquiry may be eligible to apply for permanent residence from within Canada.
Description	<p>At this point in Stage 2, the CIC officer must make sure that all cases with a credible basis meet the eligibility criteria to apply for landing under the RCDC Regulations.</p> <p>Depending on the case, this may involve more than one review of the person's eligibility to apply for landing under the RCDC Regulations.</p> <p>The officer must be aware that the person's status may change at any point in the process. It is important to review the file each time the person's case comes up for consideration to make sure that the person continues to be eligible to apply for landing under the RCDC Regulations.</p>
Example	<p>Example of a person who becomes ineligible to apply for landing under the RCDC Regulations.</p> <p>Mr. A was eligible for landing under the RCDC Regulations when his case was assessed by the RBRU in Stage 1. Since then, he was away from Canada between February 1, 1990 and Feb. 21, 1990. This absence of more than seven days makes him now ineligible to apply for landing under the RCDC Regulations.</p>
Fact	Some people never applied for landing through the Administrative Review Project under the old legislation because they believed themselves to be ineligible. These people may apply for processing under the RCDC Regulations if they meet current eligibility criteria.
Related Pages	<p>Who should be assessed for eligibility to apply for landing under the RCDC Regulations?, p. 120</p> <p>Persons not eligible to apply for landing under RCDC regulations, p. 121</p>

Who should be assessed for eligibility to apply for landing under the RCDC Regulations?

Summary Table

This table lists the decisions that lead to a person's being assessed for eligibility to apply for landing under the RCDC Regulations.

GROUP	THE PERSON MUST HAVE BEEN...
1	<ul style="list-style-type: none"> • screened credible by the RBRU at NHQ
	<ul style="list-style-type: none"> • screened non-credible by the RBRU • found to have <u>no</u> H & C grounds • <u>not</u> willing to take the voluntary departure option OR from an IC 1.22 (1)(b) country • found credible at a panel hearing
	<ul style="list-style-type: none"> • screened non-credible by the RBRU • found to have H & C grounds • failed on statutory requirements • <u>not</u> issued a Minister's permit • found credible at a panel hearing
	<ul style="list-style-type: none"> • found to have <u>no</u> H & C grounds • <u>not</u> willing to take the voluntary departure option OR from an IC 1.22 (1)(b) country • found credible at a panel hearing
2 & 3	<ul style="list-style-type: none"> • found to have H & C grounds • failed on statutory requirements • <u>not</u> issued a Minister's Permit • found credible at a panel hearing
	<ul style="list-style-type: none"> • found to have H & C grounds • failed on statutory requirements • <u>not</u> issued a Minister's Permit • found credible at a panel hearing
4	<ul style="list-style-type: none"> • found to have <u>no</u> H & C grounds • <u>not</u> willing to take the voluntary departure option • found credible at an inquiry
	<ul style="list-style-type: none"> • in-status claimants found to have <u>no</u> H & C grounds • <u>not</u> willing to take the voluntary departure option OR from an IC 1.22 (1)(b) country • found credible at a panel hearing
	<ul style="list-style-type: none"> • found to have H & C grounds • failed on statutory requirements • found credible at an inquiry

Related Pages

Persons not eligible to apply for landing under RCDC Regulations

Summary Table

This table describes persons who are **not eligible** under the RCDC Regulations.

CATEGORY	DESCRIPTION
Convention Refugees	Persons determined: <ul style="list-style-type: none">• to be Convention refugees before January 1, 1989• <u>not</u> to be Convention Refugees by the Refugee Division
Removal orders and departure notices	Persons who are subjects of unexecuted: <ul style="list-style-type: none">• departure notices OR• removal orders, unless an appeal from the order has been allowed
Refused applications	Persons who applied for and were refused landing under either the RCDC regulations or the Refugee Claims Backlog regulations.
Failure to appear	Persons who failed to appear for: <ul style="list-style-type: none">• a port of entry examination• an examination under oath• an immigration inquiry OR <ul style="list-style-type: none">• the continuation of any of the these processes where the person received an appointment
Criminals and security risks	Persons described in paragraph 19(1)(c), (d), (e), (f), (g) or (j) or 27(2)(c) of the Immigration Act
Departed from Canada	Persons who left Canada on or after Dec. 27, 1989 and who returned more than 7 days later after: <ul style="list-style-type: none">• having claimed refugee status OR• having indicated an intent to claim refugee status to an immigration officer or an adjudicator

Related Pages

What to do next, when a person is eligible to apply for landing under the RCDC Regulations

Rule	Make sure you get the person's fingerprints at the earliest opportunity after the claim has been found to have a credible basis.				
Description	<p>When a person is eligible to apply for landing under the RCDC Regulations, the next step is to assess statutory requirements. To save time, the officer sends the person several documents together:</p> <ul style="list-style-type: none">• the approval letter confirming the credible basis of the claim• the forms which must be completed by the person in preparation for assessing whether the person meets statutory requirements.				
Summary Table	<p>This table outlines the documents to send when a person is eligible to apply for landing under the RCDC Regulations.</p> <table><tr><th>RBRU CASES</th><th>PANEL OR INQUIRY CASES</th></tr><tr><td><ul style="list-style-type: none">• Approval letter (appendix E1)• an IMM 8 Form--Application for Permanent Residence• CIC return envelope• medical instructions, if not already provided to the person• an Information Form• a Supplementary B Form, if required</td><td><ul style="list-style-type: none">• Approval letter (Appendix E2)• an IMM 8 Form--Application for Permanent Residence• CIC return envelope• medical instructions, if not already provided to the person</td></tr></table>	RBRU CASES	PANEL OR INQUIRY CASES	<ul style="list-style-type: none">• Approval letter (appendix E1)• an IMM 8 Form--Application for Permanent Residence• CIC return envelope• medical instructions, if not already provided to the person• an Information Form• a Supplementary B Form, if required	<ul style="list-style-type: none">• Approval letter (Appendix E2)• an IMM 8 Form--Application for Permanent Residence• CIC return envelope• medical instructions, if not already provided to the person
RBRU CASES	PANEL OR INQUIRY CASES				
<ul style="list-style-type: none">• Approval letter (appendix E1)• an IMM 8 Form--Application for Permanent Residence• CIC return envelope• medical instructions, if not already provided to the person• an Information Form• a Supplementary B Form, if required	<ul style="list-style-type: none">• Approval letter (Appendix E2)• an IMM 8 Form--Application for Permanent Residence• CIC return envelope• medical instructions, if not already provided to the person				
Comment	<p>Sometimes a person is eligible to apply for landing under the RCDC Regulations, and there is already evidence on file that he or she does not meet statutory requirements. In this situation, counsel the person about the likelihood of a refusal if he or she applies for landing and about the full CRDD hearing.</p> <ul style="list-style-type: none">• If the person applies for landing anyway, collect the fee, if not already collected, and review the application. If the circumstances have not changed, refuse the application. Inform the person that the application has been refused. If a Minister's permit is not warranted, arrange a full CRDD hearing.• If the person decides not to apply for landing after your counselling, arrange a full CRDD hearing.				

Related Pages

Preparing to assess statutory requirements, pp.135-154

What to do next, when a person is ineligible to apply for landing under the RCDC Regulations

Summary Table

This table explains what to do next, when a person is ineligible to apply for landing under the RCDC Regulations.

**NOT
ELIGIBLE**

SITUATION	NEXT STEP	FORMS
<ul style="list-style-type: none">• screened credible at the RBRU• ineligible to apply for landing under the RCDC Regulations	<ul style="list-style-type: none">• provide a letter stating why the person is ineligible to apply for landing under the RCDC Regulations• arrange an initial Humanitarian and Compassionate review	Appendix E3
<ul style="list-style-type: none">• found to have a credible basis at a panel hearing or an inquiry• ineligible to apply for landing under the RCDC Regulations	<ul style="list-style-type: none">• provide a letter stating why the person is ineligible to apply for landing under the RCDC Regulations• counsel the person regarding a full CRDD hearing• arrange a full CRDD hearing	Appendix E3

Comment

If the person's case is not being handled at a Backlog CIC, then the officer should follow the procedures outlined in the section on CRDD hearings when arranging a CRDD hearing.

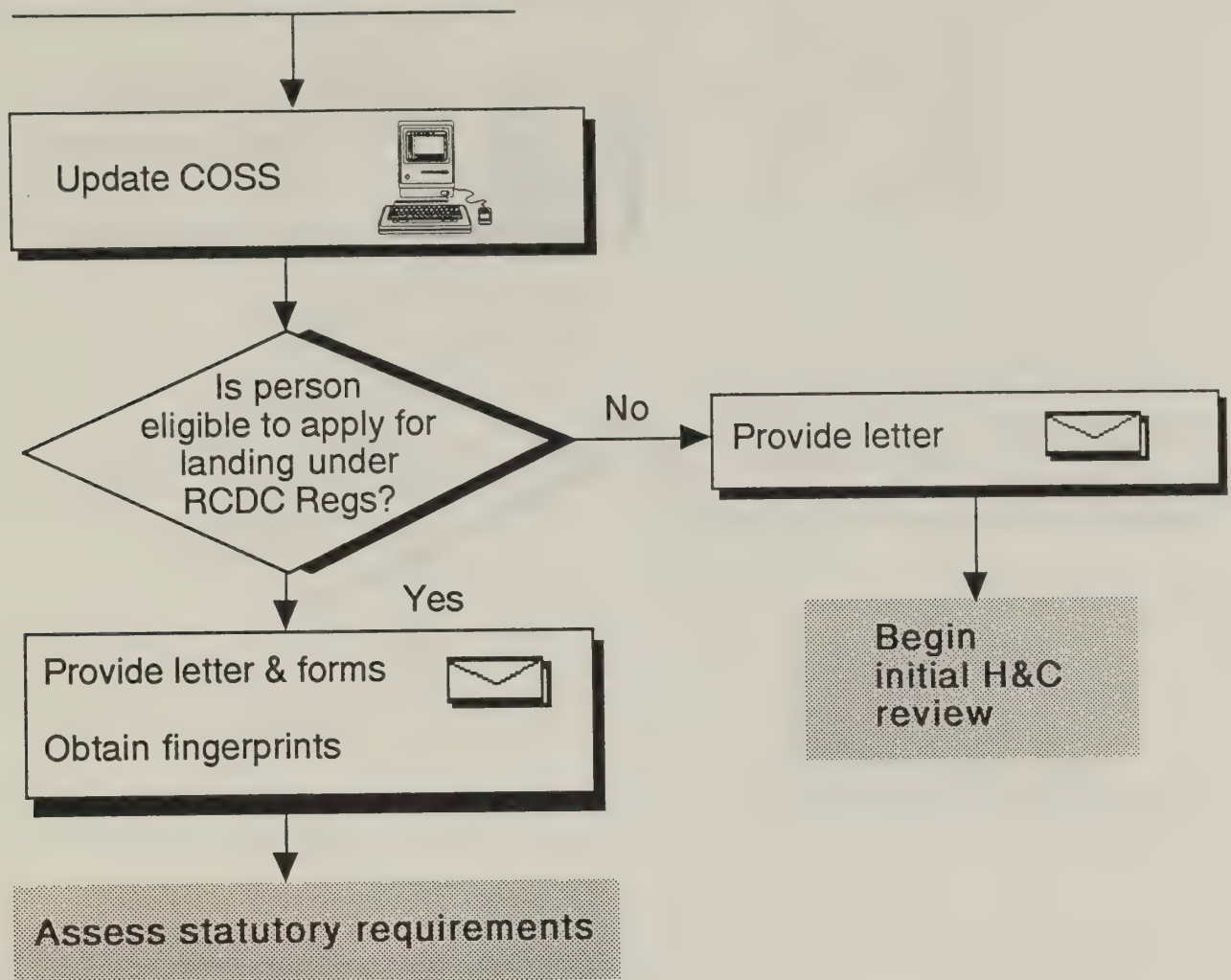
Related Pages

Initial H&C Review, pp. 55-81
CRDD hearing, pp. 158-169



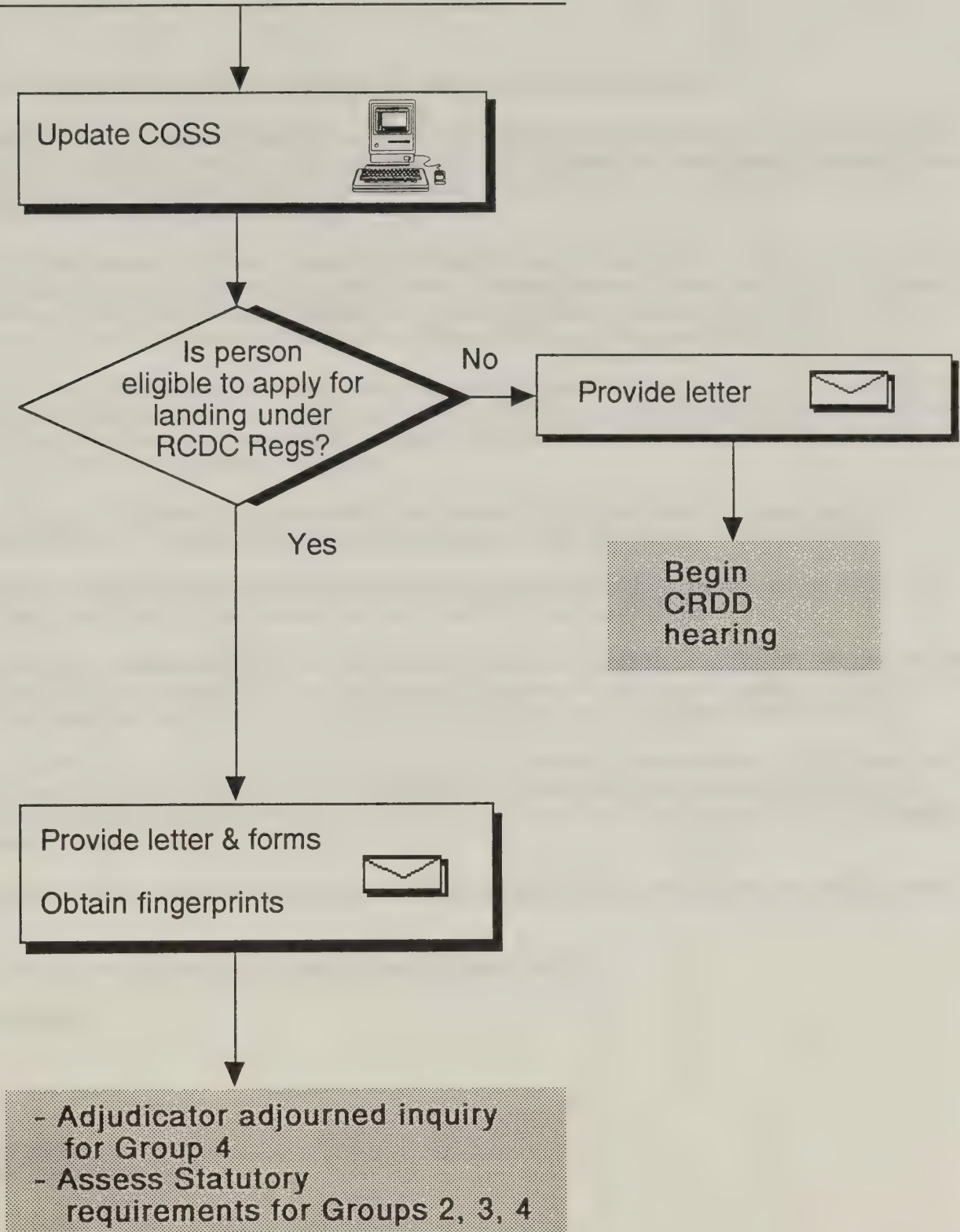
Flowchart--Assessing eligibility to apply for landing under RCDC Regulations--Group 1 credible at RBRU

Group 1 found credible at RBRU



Flowchart--Assessing eligibility to apply for landing under RCDC Regulations--Groups 2, 3, 4

Groups 2, 3, 4 found credible at a Panel hearing



E1: Approval Letter - Credible Basis - Transcript Cases

Dear

This letter concerns your immigration status in Canada. Please read it carefully.

On January 1, 1989 a new refugee determination system came into effect. Persons who made refugee claims prior to January 1 will also have their cases determined under this new system. However, persons in this refugee backlog whose claims are found to have a credible basis may be eligible to apply for permanent residence from within Canada.

As part of the clearance program, a transcript of your examination under oath has been examined. It has been determined that your claim has a credible basis. Although you may pursue your claim by proceeding to a hearing before the Convention Refugee Determination Division (CRDD), you may now apply for permanent residence in Canada pursuant to the Refugee Claimants Designated Class Regulations.

Should you wish to apply for permanent residence, complete and return the enclosed Application for Permanent Residence. You should follow the instructions for completion of the application very closely. The form is to be returned without delay to this office in the envelope provided. No action can be taken to process your case until the form is returned.

All immigrants to Canada must meet statutory requirements, such as a medical examination and a background check. You may be asked to be fingerprinted so that this check can be completed.

If you do not wish to apply for permanent residence in Canada under this program, please advise this office immediately so that your hearing may be scheduled before the CRDD.

It is important to understand that if you are granted permanent resident status under this program no further action will be taken on your claim to refugee status. If you do not wish to participate in this program or if you do not meet the requirements, you will be able to continue with your claim to refugee status.

A fee of \$250.00 is required to process your application regardless of the outcome. This payment must be made by certified cheque or money order payable to the Receiver General for Canada and should be returned in the self-addressed envelope provided along with your completed application for permanent residence. **DO NOT MAIL CASH.**

Upon receipt of these items we will arrange an appointment with you at which time you will be issued a receipt.

If you change your address, please advise this office immediately.

Yours sincerely

The Manager
Canada Immigration Centre

E2: Approval Letter - Oral Hearing for Credible Basis

Dear

This letter concerns your immigration status in Canada. Please read it carefully.

On January 1, 1989 a new refugee determination system came into effect. Persons who made refugee claims prior to January 1 will also have their cases determined under this new system. However, persons in this refugee backlog whose claims are found to have a credible basis may be eligible to apply for permanent residence from within Canada.

An adjudicator and a CRDD member have determined that you have a credible basis to pursue a claim to refugee status. Although you may pursue your claim by proceeding to a hearing before the Convention Refugee Determination Division (CRDD), you may now apply for permanent residence in Canada pursuant to the Refugee Claimants Designated Class Regulations.

Should you wish to apply for permanent residence, complete and return the enclosed Application for Permanent Residence. You should follow the instructions for completion of the application very closely. The form is to be returned without delay to this office in the envelope provided. No action can be taken to process your case until the form is returned.

All immigrants to Canada must meet statutory requirements, such as a medical examination and a background check. You may be asked to be fingerprinted so that this check can be completed.

If you do not wish to apply for permanent residence in Canada under this program, please advise this office immediately so that your hearing may be scheduled before the CRDD.

It is important to understand that if you are granted permanent resident status under this program no further action will be taken on your claim to refugee status.

If you do not wish to participate in this program or if you do not meet the immigration statutory requirements, you will be able to continue with your claim to refugee status.

A fee of \$250.00 is required to process your application regardless of the outcome. This payment must be made by certified cheque or money order payable to the Receiver General for Canada and should be returned in the self-addressed envelope provided along with your completed application for permanent residence. **DO NOT MAIL CASH.**

Upon receipt of these items we will arrange an appointment with you at which time you will be issued a receipt.

If you change your address, please advise this office immediately.

Yours sincerely

The Manager
Canada Immigration Centre

E3: Letter of Refusal - Credible Basis - Ineligible to apply

Dear

I am writing to you regarding your immigration status in Canada.

Although your refugee claim has been determined to have a credible basis, you are ineligible to apply under the Refugee Claimants Designated Class Regulations in that you...
(give full details of ineligibility for example; you were issued a removal order on June 17, 1986 and you have not left Canada since that date or you failed to appear for the continuation of your inquiry which was scheduled to resume on August 14, 1987 etc.)

Since your claim has been found to have a credible basis, you will be scheduled for a full hearing by the Convention Refugee Determination Division, which will make a finding on your claim to refugee status.

If you change your address please advise this office immediately.

Yours sincerely,

Immigration Officer

Stage 2--Deciding which claimants to accept

Assessing Statutory Requirements

Table of Contents

Page

Assessing Statutory Requirements.....	135
Assessing statutory requirements: Overview	136
Preparing to assess statutory requirements for positive H&C cases	137
Preparing to assess statutory requirements for cases which are eligible to apply for landing under the RCDC Regulations.....	138
How to decide whether a person meets statutory requirements	139
What to do when the person meets statutory requirements.....	140
What to do next, when the person fails statutory requirements.....	141
What to do when the person has a positive final H and C and fails statutory requirements	142
Spare.....	143
Spare.....	144
Spare.....	145
Flowchart for Assessing Statutory Requirements--Group 1	146
Flowchart for Assessing Statutory Requirements--Group 1 (continued)	147
Flowchart for Assessing Statutory Requirements--Groups 2, 3, 4	148
F1: Call-in Notice - Humanitarian and Compassionate Review (Group 1 found credible at RBRU, failed statutory requirements)	149
F2: Letter of Refusal - Credible Basis - Failed Statutory Requirements	150
F3: Letter of Refusal - H&C, failed statutory requirements.....	151
F4: Letter of Refusal - Credible/Failed Statutory Requirements (Group 4)	152
F5: Approval Letter - Humanitarian and Compassionate Grounds.....	153
F6: Letter of Refusal - Group 1: H&C, failed statutory requirements after RBRU Credible	154
F7: Spare.....	155
F8: Spare.....	156
F9: Spare.....	157

Assessing statutory requirements: Overview

Introduction All persons **must** meet statutory requirements before they can be landed.

Statutory requirements can be assessed at different points during Stage 2, depending on the particular case:

- after a positive **initial** H and C review
- after the person has been found eligible to apply for landing under the RCDC Regulations
- after a positive **final** H and C review

Rules

- Persons with criminal records must not be landed.
- People should not be landed if the officer discovers that they were collecting welfare while working. Landing procedures should stop, pending court decisions on charges brought by the welfare authorities.
- The officer should not land people where there are reasonable grounds to believe that they will be unable or unwilling to support themselves or their dependants.

Definition Reasonable grounds is defined as “a set of facts or circumstances which would satisfy an ordinarily cautious and prudent person and which are more than mere suspicions.”

**Related
Pages**



Preparing to assess statutory requirements for positive H&C cases

Introduction A positive decision at an H and C review gives the person approval in principle to apply for permanent residence on humanitarian and compassionate grounds.

This page describes the procedures for preparing to assess statutory requirements for all cases which received a positive decision at an H and C review.

Procedure Table

This table describes what the officer does to assess statutory requirements for positive H and C cases.

STEP	DESCRIPTION
1.	Update COSS
2.	Give the person the following information: <ul style="list-style-type: none">• one IMM 8 Form- Application for Permanent Residence with the following written at the top of page 1: This application has effect only upon the granting of a visa exemption by the Governor-in-Council.• a CIC return envelope• medical and background check instructions, if not already provided
3.	<ul style="list-style-type: none">• Obtain the person's fingerprints• Tell the person that :<ul style="list-style-type: none">• this is only a request for a visa exemption--it is not a visa exemption• the person's application for permanent residence will be considered if and when the visa exemption is granted.
4.	<ul style="list-style-type: none">• Complete IMM 1104 and IMM 1344, if applicable.• Enter "processed in Canada" at the top of IMM 1344
5.	<ul style="list-style-type: none">• If the person had a positive initial H&C, seek an O-I-C waiver with IMM 655.• If the person had a positive final H&C, RBRU seeks the O-I-C waiver
6.	Initiate medical, security and criminal checks.
7.	Once you have all the medical and background reports, you are ready to assess whether the person meets statutory requirements.

Related Pages

Preparing to assess statutory requirements for cases which are eligible to apply for landing under the RCDC Regulations

Introduction When a case is found to have a credible basis, either at a panel hearing or inquiry, the person may apply for landing if eligible to apply under the RCDC Regulations. The next step is to assess statutory requirements.

This page describes the procedures for preparing to assess statutory requirements for all cases which were found to have a credible basis and which are eligible to apply for landing under the RCDC Regulations.

Fact Normally the officer would already have sent the documents required to assess statutory requirements to the person in the same envelope with the approval letter confirming the credible basis of the claim. These documents are listed in this manual in the section entitled: Eligibility to Apply for Landing under RCDC Regulations.

Procedure Table This table describes what the officer does to assess statutory requirements for cases which have a credible basis, and which are eligible to apply for landing under the RCDC Regulations.

STEP	DESCRIPTION
1.	Update COSS.
2.	Receive the following from the person: <ul style="list-style-type: none">• the completed IMM 8 form• the processing fee• the completed Information Form• the completed Supplementary B Form, if required
3.	Initiate medical, security and criminal checks.
4.	Once you have all the medical and background reports, you are ready to assess whether the person meets statutory requirements.

Fact When a Group 4 case is found to have a credible basis at an inquiry, and if the person is eligible to apply for landing under the RCDC Regulations, an adjournment of the inquiry is requested. If the adjournment is granted, the officer prepares to assess statutory requirements for credible Group 4 cases using the procedures outlined on this page.

Related Pages

How to decide whether a person meets statutory requirements

Description To decide whether a person meets the statutory requirements for landing, the officer assesses:

- security reports
- criminal reports
- the medical results
- the ability of the person to support himself or herself

Comment Officers must remember that, prior to Jan 12, 1989, people who had not been examined under oath were not authorized to work.

Decision Table This table describes what the officer should consider and what steps to take to evaluate whether a person fails statutory requirements.

IF PEOPLE COULD FAIL...	THE OFFICER SHOULD CONSIDER...	AND TAKE THE FOLLOWING ACTION...
because they have criminal records	<ul style="list-style-type: none">• the seriousness of the crimes• whether the people have been rehabilitated	initiate reviews as outlined in IS 9.17
because they may be unable or unwilling to support themselves and their dependants	<ul style="list-style-type: none">• how long and how often they have received social assistance• support available from relatives and friends• present incomes• prospects for future self- sufficiency• whether the person was authorized to work	collect information to support his decision by contacting <ul style="list-style-type: none">• social welfare authorities• charities the claimant has used

Rule Whenever the failure to meet statutory requirements results in new grounds for an inquiry, always write a report.

**Related
Pages**

What to do when the person meets statutory requirements

Fact

When the person meets statutory requirements, his or her case goes to the landing process in Stage 3.

Related Pages

Staying in Canada, pp 235-254



What to do next, when the person fails statutory requirements

Decision Table

When a person fails to meet statutory requirements, and the failure results in new grounds for an inquiry, the next step is to write a report. If the situation warrants, a Minister's permit may be issued.

HISTORY OF THE CASE	NEXT STEP
Group 1, credible (RBRU) <ul style="list-style-type: none"> • eligible to apply for landing under RCDC Regs. • fails statutory requirements 	<ul style="list-style-type: none"> • provide letter Appendix F1 • write a report, if new allegations exist • set up initial H and C
Groups 1, 2, 3 <ul style="list-style-type: none"> • found credible at panel hearing • eligible to apply for landing under RCDC Regs. • fails statutory requirements 	<ul style="list-style-type: none"> • provide letter Appendix F2 • write report, if new allegations exist • begin full CRDD hearing, if permit is not issued
Group 1, credible (RBRU) <ul style="list-style-type: none"> • not eligible to apply for landing under RCDC Regs. • positive initial H and C • fails statutory requirements 	<ul style="list-style-type: none"> • provide letter App F6 • write report, if new allegations exist • begin full CRDD hearing, if permit is not issued
Group 1, 3 <ul style="list-style-type: none"> • positive initial H and C • fails statutory requirements 	<ul style="list-style-type: none"> • provide letter Appendix F3 • write report, if new allegations exist • set up Panel, if permit is not issued
Group 2 <ul style="list-style-type: none"> • positive initial H and C • fails statutory requirements 	<ul style="list-style-type: none"> • provide letter Appendix F3 • if new allegations, write report • set up Panel, if the person is maintained on permit
Group 4 <ul style="list-style-type: none"> • deemed credible at the inquiry • fails statutory requirements 	<ul style="list-style-type: none"> • if new allegations, write report • resume inquiry, if it had been adjourned earlier • begin full CRDD hearing
Group 4 <ul style="list-style-type: none"> • positive initial H and C • fails statutory requirements 	<ul style="list-style-type: none"> • write report, if new allegations exist • if no permit, Inquiry is held
Groups 1, 2, 3, 4 <ul style="list-style-type: none"> • positive final H and C • fails statutory requirements 	<ul style="list-style-type: none"> • procedures vary • the next page describes what to do in specific situations



Related Pages

What to do when the person has a positive final H and C and fails statutory requirements

Introduction When the person receives a positive decision at the final H and C review, the procedures differ depending on when the failure to meet the statutory requirements is identified.

Decision Table

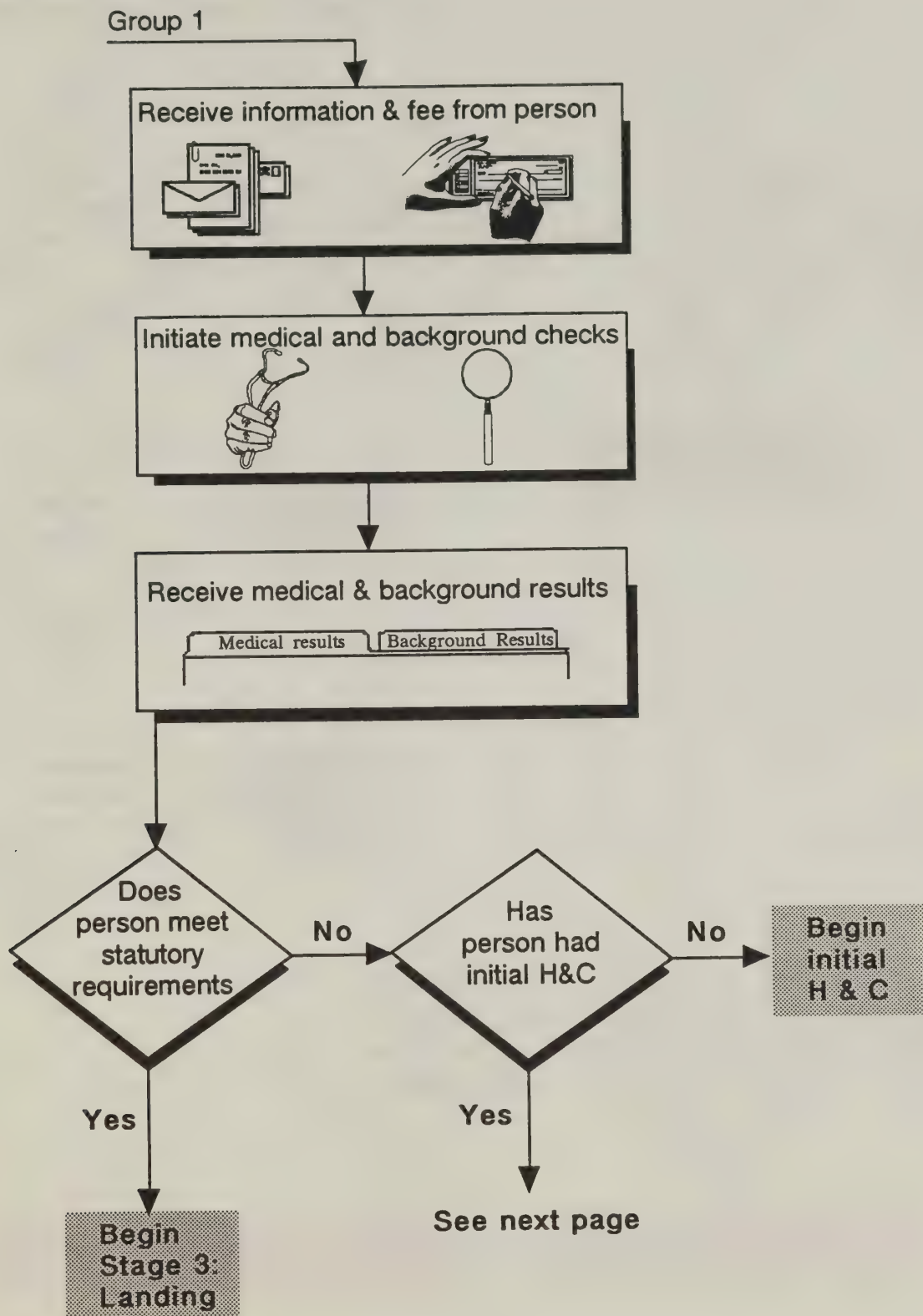
This table describes what to do when the person receives a positive decision at the final H and C review and also fails statutory requirements.

HISTORY OF THE CASE	NEXT STEP
Groups 1, 2, 3, 4 <ul style="list-style-type: none">• fails statutory requirements• then receives a positive decision at the final H and C	<ul style="list-style-type: none">• obtain the Minister's consent (A55)• counsel the person about obtaining the Minister's permit at the port of entry when he or she re-enters Canada• carry out the outstanding removal order or departure notice• when the person's travel arrangements are known, telex or FAX to the port of entry any details necessary to facilitate the issuance of the permit
Groups 1, 2, 3, 4 <ul style="list-style-type: none">• positive decision at the final H and C• then fails statutory requirements	<ul style="list-style-type: none">• telex information to the RBRU giving the details of any serious prohibition• depending on the decision from the Minister's delegate:<ul style="list-style-type: none">• remove the person OR• obtain the Minister's consent (A55)• counsel the person about obtaining the Minister's permit at the port of entry when he or she re-enters Canada• carry out the outstanding removal order or departure notice• when the person's travel arrangements are known, telex or FAX to the port of entry any details necessary to facilitate the issuance of the permit

Related Pages

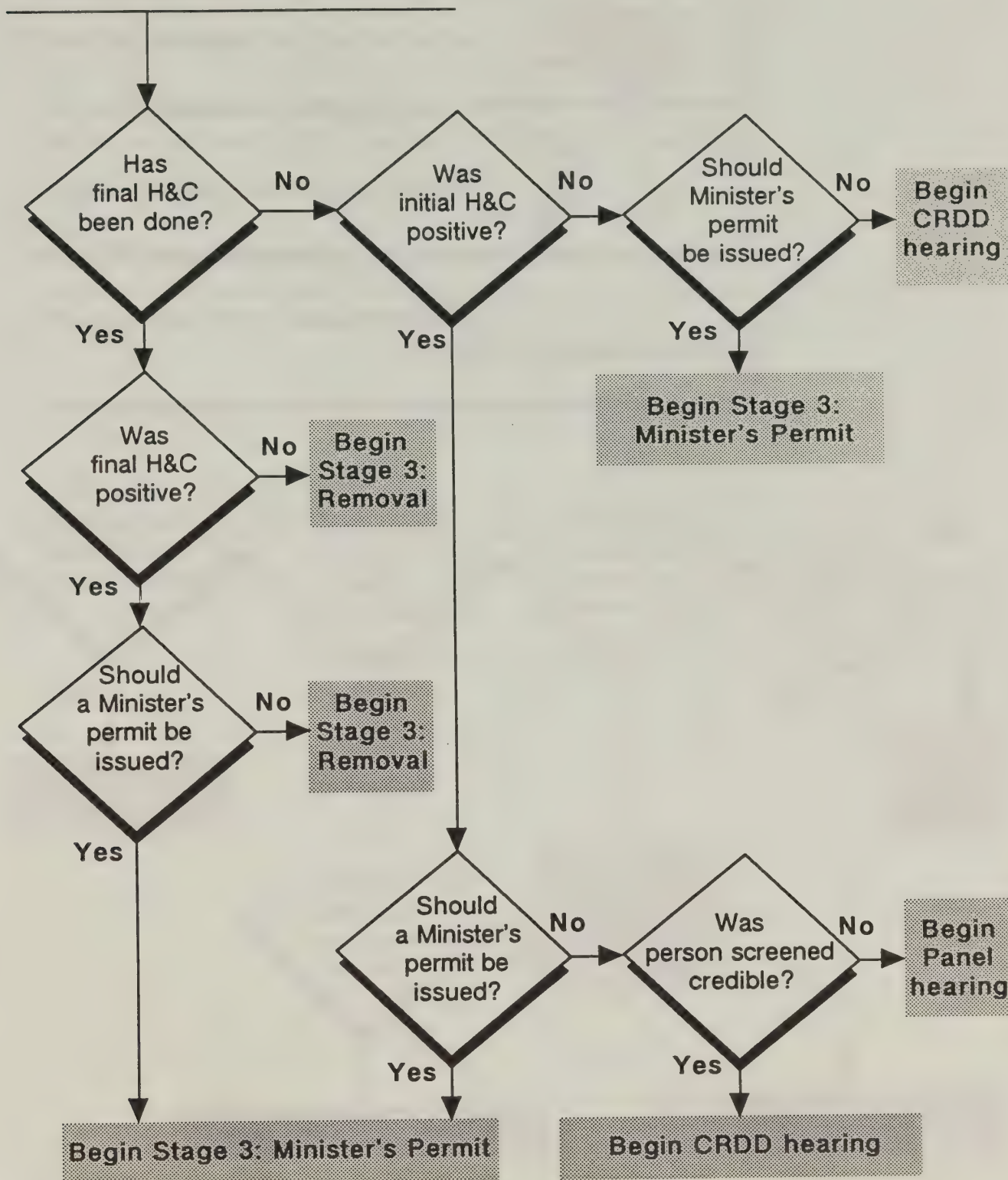
Flowchart for Assessing Statutory Requirements--Group 1

Stage 2 - Assess statutory requirements

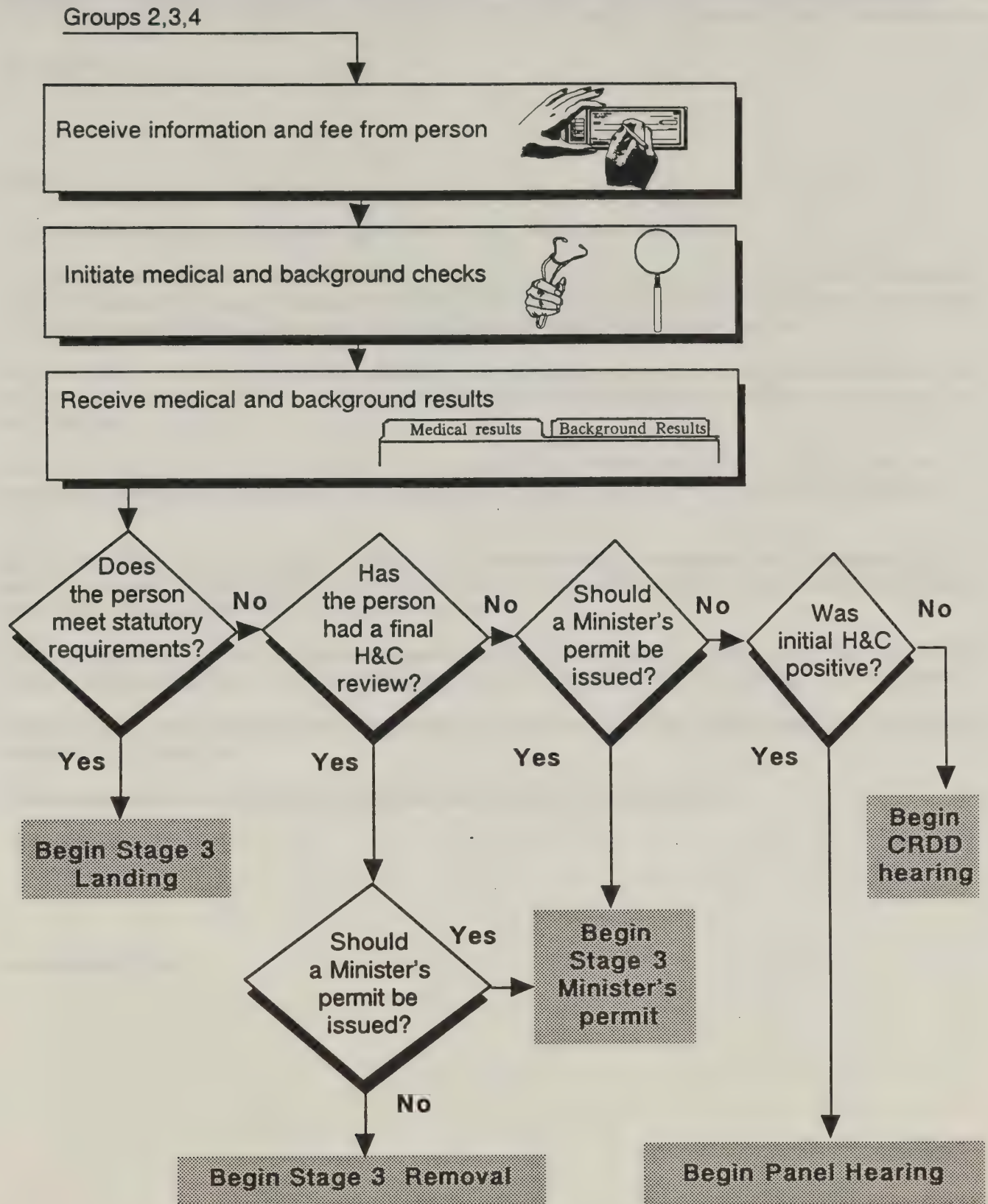


Flowchart for Assessing Statutory Requirements--Group 1 (continued)

Continued from previous page:
Person has had initial H&C review



Flowchart for Assessing Statutory Requirements--Groups 2, 3, 4



F1: Call-in Notice - Humanitarian and Compassionate Review (Group 1 found credible at RBRU, failed statutory requirements)

CIC File No.: _____

Dear

This letter refers to your immigration status in Canada. Please read it carefully.

You are requested to attend an interview on _____ at _____. An immigration officer will review your case to determine whether sufficient humanitarian and compassionate reasons exist to process an application for permanent residence on your behalf from within Canada.

If you feel that your case deserves consideration in light of humanitarian and compassionate grounds, you are invited to prepare the reasons in writing and submit them to the immigration officer when you come to the interview.

If this initial review is unsuccessful, you will be scheduled for a full hearing of your claim to refugee status before the Convention Refugee Determination Division (CRDD) of the Immigration and Refugee Board.

Should the CRDD determine that you are not a Convention Refugee, your inquiry will be resumed. You may then become the subject of a departure notice or a removal order. Persons in this situation will benefit from a final humanitarian and compassionate review.

Please complete the enclosed Information Form and bring it with you to your interview. This form will be used for a background check. You may be asked to be fingerprinted so that this check can be completed.

Finally, the enclosed Personal Information Form is required by the CRDD. Please complete it and bring it with you to the interview.

Please advise this office immediately if you are unable to keep this appointment.

Yours sincerely,

Immigration Officer

F2: Letter of Refusal - Credible Basis - Failed Statutory Requirements

Dear

I am writing to you regarding your application for permanent residence in Canada under the Refugee Claimants Designated Class Regulations.

One of the requirements for approval of an application for permanent residence under these Regulations is that the applicant and his/her dependants meet the requirements of the Immigration Act and Regulations.

Although your case has been determined to have a credible basis for your claim to refugee status, you have been found to be inadmissible to Canada pursuant to Section 19 e.g. (1)(b) of the Immigration Act, in that you ...

(give full details of inadmissibility, for example you are unable to support yourself and your dependants as evidenced by the fact that you have received social assistance since include length of time and frequency of receipt and other supporting information).

Therefore, your application for permanent residence in Canada has been refused.

Since your claim has been found to have a credible basis, you will be scheduled for a full hearing by the Convention Refugee Determination Division, which will make a finding on your claim to refugee status.

If you change your address please advise this office immediately.

Yours sincerely

Immigration Officer

F3: Letter of Refusal - H&C, failed statutory requirements

Dear

I am writing to you regarding your application for permanent residence in Canada.

Although it has been found that your case has sufficient humanitarian and compassionate grounds for processing your application in Canada, you have been found to be inadmissible to Canada pursuant to Section 19 e.g. (1)(b) of the Immigration Act, in that you ...

(give full details of inadmissibility, for example you are unable to support yourself and your dependants as evidenced by the fact that you have received social assistance since include length of time and frequency of receipt and other supporting information).

Therefore, your application for permanent residence in Canada has been refused.

As you have made a claim to refugee status in Canada you will be scheduled for an oral hearing before a member of the Immigration Refugee Board and an adjudicator who will determine if you have a credible basis for a claim to refugee status.

If you change your address please advise this office immediately.

Yours sincerely,

Immigration Officer

F4: Letter of Refusal - Credible/Failed Statutory Requirements (Group 4)

Dear

This letter refers to your immigration status in Canada. Please read it carefully. Although your refugee claim has been determined to have a credible basis, you are inadmissible under the Immigration Act in that you....

(give full details of ineligibility; for example you are described in paragraph 19(1) (c) of the Immigration Act as you have been convicted of..... include details)

Consequently, your application for permanent residence in Canada has been refused (or) you are ineligible to apply under the Refugee Claimants Designated Class Regulations. The resumption of your inquiry has been scheduled for _____ at which time a removal order may be issued against you. This order is conditional pending the result of a full refugee hearing before two members of the Convention Refugee Determination Division.

Only one member need find you to be a Convention Refugee in order for your claim to be successful.

If you change your address, please advise this office immediately.

Yours sincerely

Immigration Officer
Canada Immigration Centre

F5: Approval Letter - Humanitarian and Compassionate Grounds

Dear

I am pleased to advise you that approval-in-principle has been given to accept and process an application by you for permanent residence in Canada on humanitarian and compassionate grounds.

Please complete the attached Application for Permanent Residence. You should follow the instructions for completion of the form very closely. A fee of \$250 is required to process your application regardless of the outcome. This payment must be made by certified cheque or money order payable to the Receiver General for Canada and should be returned in the self addressed envelope provided along with your completed application for permanent residence. **DO NOT MAIL CASH.** No action can be taken to process your case until the form is returned. You will be issued a processing fee receipt at a subsequent interview.

All immigrants to Canada must meet statutory requirements, such as pass a medical examination and a background check. You may be asked to be fingerprinted so that the check can be completed.

It is important to understand that if you are granted permanent residence in Canada no further action will be taken on your claim to refugee status. If you do not wish to participate in this program or if you do not meet the requirements, you will be able to continue with your claim to refugee status.

After we receive your form, special authority from the Governor-in-Council is required to process your application for landing from within Canada. When this process is completed, we will arrange an appointment with you.

If you change your address, please advise this office immediately.

Yours sincerely,

Immigration Officer
Canada Immigration Centre

F6: Letter of Refusal - Group 1: H&C, failed statutory requirements after RBRU Credible

Dear

I am writing to you regarding your application for permanent residence in Canada.

Although it has been found that your case has sufficient humanitarian and compassionate ground for processing your application in Canada, you have been found to be inadmissible to Canada pursuant to Section 19 e.g. (1) (b) of the Immigration Act, in that you....

(give full details of inadmissibility, for example, you are unable to support yourself and your dependants as evidenced by the fact that you have received social assistance since..... include length of time and frequency of receipt and other supporting information.)

Therefore, your application for permanent residence in Canada has been refused.

Since you were found to have a credible basis for a claim to refugee status, you will be scheduled for a full hearing of your claim before the Convention Refugee Determination Division of the Immigration and Refugee Board.

If you change your address, please advise this office immediately.

Yours sincerely,

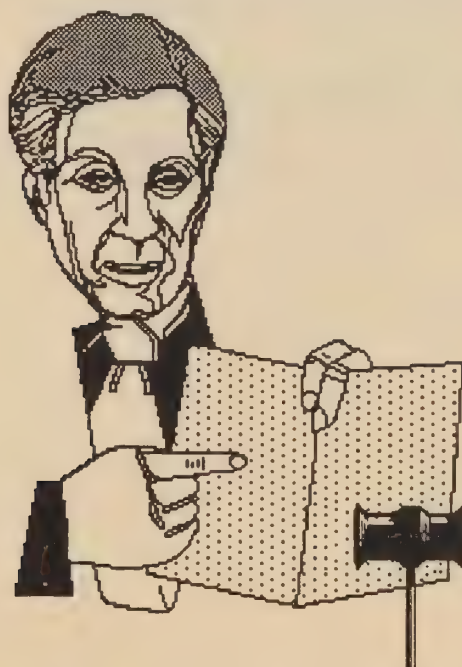
Immigration Officer

Stage 2: Deciding which claimants to accept

CRDD hearing

Table of Contents

	Page #
CRDD hearing	158
Who gets a CRDD hearing?.....	159
Procedures for the interview prior to a CRDD hearing.....	160
Preparations for a CRDD hearing after the interview	161
How to arrange a CRDD hearing from non Backlog CICs	162
Consequences of the CRDD hearing	163
Grounds for a Section 27 report	164
Spare.....	165
Spare.....	166
Spare.....	167
Flowchart for CRDD hearing.....	168
G1: Letter - Intent to cancel Minister's permit.....	169
G2: Spare	170
G3: Spare	171
G4: Spare	172



Who gets a CRDD hearing?

Definition

The CRDD Hearing is a legal oral hearing that:

- is ruled on by two members of the Convention Refugee Determination Division
 - determines whether a person is a Convention Refugee
-

Fact

Also present at the CRDD Hearing are:

- a hearing officer
 - the person or his or her designated representative
 - counsel for the person, if desired
-

Summary Table

This table describes who receives a CRDD hearing.

GROUP	DESCRIPTION
Groups 1, 2, 3, and 4	<ul style="list-style-type: none">• have been found credible and• are ineligible to apply for landing under the RCDC regulations
	<ul style="list-style-type: none">• have been found credible and• are eligible to apply for landing under the RCDC regulations and• fail to meet the statutory requirements
	<ul style="list-style-type: none">• have been found credible and• do <u>not</u> wish to apply for landing under the RCDC regulations

Related Pages

Procedures for the interview prior to a CRDD hearing

- Introduction** Prior to a CRDD hearing, both the CIC officer and an IRB representative counsel the person. The CIC officer:
- calls the person in for an interview
 - ensures that an IRB representative is available, where feasible.

Procedure Table This table describes how to counsel the person prior to a CRDD hearing. It also describes who is responsible for each activity.

STEP	DESCRIPTION	WHO
1.	Describe the CRDD hearing process and, for Group 4 cases, the resumption of the inquiry	CIC officer
2.	Call in the IRB representative.	
3.	For persons who have a credible claim and failed to meet the statutory requirements: <ul style="list-style-type: none">• collect the cost recovery fee, if not paid, and provide a receipt• have the person sign the IMM 8 form• extend the Minister's permit, if necessary, for persons in Group 2• give the person a letter stating that he/she does <u>not</u> meet statutory requirements- Appendix F2• write report, if there are new allegations	
4.	Discuss the person's availability for the hearing and whether a designated representative is needed	IRB rep.
5.	Give the person printed information on the determination process including <ul style="list-style-type: none">• a list of organizations which help refugees• the name of a Bar Association contact	
6.	Advise the person about: <ul style="list-style-type: none">• the right to counsel• the consequences of failure to appear• the need to report any address change by phoning or writing to the IRB	

Comment Whenever feasible, an IRB representative should be present when the person is counselled about the CRDD hearing. At Backlog CICs without IRB officers on site, a CRDD member fulfills the role.

Related Pages

Preparations for a CRDD hearing after the interview

Procedure Table

This table describes how the IRB representative and CIC officer prepare for a CRDD hearing after the interview is completed.

STEP	DESCRIPTION	WHO
1.	Schedule a hearing with the scheduling unit at the appropriate IRB regional office	IRB rep.
2.	Serve a CRDD Notice of Hearing on: <ul style="list-style-type: none">• the person or designated representative• counsel• Minister's representative	IRB rep.
3.	Receive the date and time of the CRDD hearing from the IRB representative.	CIC officer
4.	Advise Adjudication of the scheduling of the CRDD hearing.	CIC officer
5.	Update COSS.	CIC officer
6.	Receive from the Adjudicator, at least five working days before the CRDD hearing date: <ul style="list-style-type: none">• a covering memorandum• the decision made by the adjudicator and the CRDD member• the original of the completed PIF and 2 copies• the letter of refusal - credible basis/failed statutory requirements (App. F2), or the letter of refusal - credible basis/ineligible to apply (App. E3), or the appropriate CIC record	IRB rep.

Comment

If an IRB representative is not on site, then the CIC requests that Adjudication refer the following information to the appropriate IRB regional office:

- the decision concerning eligibility, and
- documentation required for the CRDD hearing

Related Pages

How to arrange a CRDD hearing from non Backlog CICs

Procedure Table

This table describes how officers prepare for CRDD hearings when :

- persons are scheduled from locations other than a Backlog CIC
- neither an IRB officer or CRDD member are on site.

STEP	DESCRIPTION
1.	Ensure that Adjudication is notified about persons advised <u>by letter</u> that they have failed statutory requirements or are ineligible to apply under RCDC regulations: <ul style="list-style-type: none">• Clearly state that the person has not yet been scheduled for a CRDD hearing.• Provide the correct address and phone number for the person and counsel.• Request that all documents from the adjudication be sent to the registry of the appropriate IRB regional office.
2.	Inform the scheduling unit that the person is being referred to the CRDD from the Refugee Claims Backlog.
3.	Receive the scheduling date for the CRDD hearing agreed upon through consultations between the person or designated representative, counsel and the scheduling unit.
4.	Advise the person that: <ul style="list-style-type: none">• a CRDD Notice of Hearing will be served by registered mail on the person or designated representative, counsel and the Minister's representative• the mailing will include information on:<ul style="list-style-type: none">• the right to counsel• the consequences of failure to appear at the hearing• the need to report any change of address by phoning or writing to the IRB• the determination process, including a list of organizations who provide refugee assistance and the name of a local Bar Association contact

Fact

The registry of the appropriate IRB regional office ensures that the person is scheduled for a CRDD hearing, is served with a Notice of Hearing and receives information about the process. The registry also serves the CRDD Notice of Hearing to all other parties.

Related Pages

Consequences of the CRDD hearing

Summary Table

This table summarizes what happens as a result of decisions made at the CRDD hearing.

DECISION	GROUP	ACTION	REFER TO
Person is a Convention Refugee	Groups 1, 2, 3, and 4	<ul style="list-style-type: none"> the person is given a notice advising him or her to report to the CIC to apply for landing the CIC begins Stage 3 Landing a Convention Refugee. 	p. 243
Person is <u>not</u> a Convention Refugee	Groups 1 and 3	The SIO causes the inquiry to be resumed which may lead to a final H and C review.	pp. 173-181
	Group 2	The CIC officer reviews the information in the file to determine whether there are grounds for a section 27 report.	p. 164
	Group 4	The CIC officer begins procedures for a final H and C review if the person has <u>not</u> been allowed to stay in Canada.	pp. 185-194

Fact

Landing is not automatic. In serious criminal or security cases, if the Minister is of the opinion that the person is a threat, we are not required to provide protection to a Convention Refugee. The Immigration Act allows us to remove the person.

Related Pages

Grounds for a Section 27 report, p. 164

Related Material

Immigration Manual
IE 10.28
IE 12.17
IE 12 algorithm 6



Grounds for a Section 27 report

Introduction For some persons in Group 2 who are in Canada on a Minister's permit, there may be information in their file that indicates grounds for a Section 27 report.

Description The CIC reviews the file to determine whether there are grounds for a Section 27 report for persons who are in Group 2 AND:

- have **not** been found credible at a panel hearing OR
- who receive a negative decision at a CRDD hearing and therefore are not Convention Refugees.

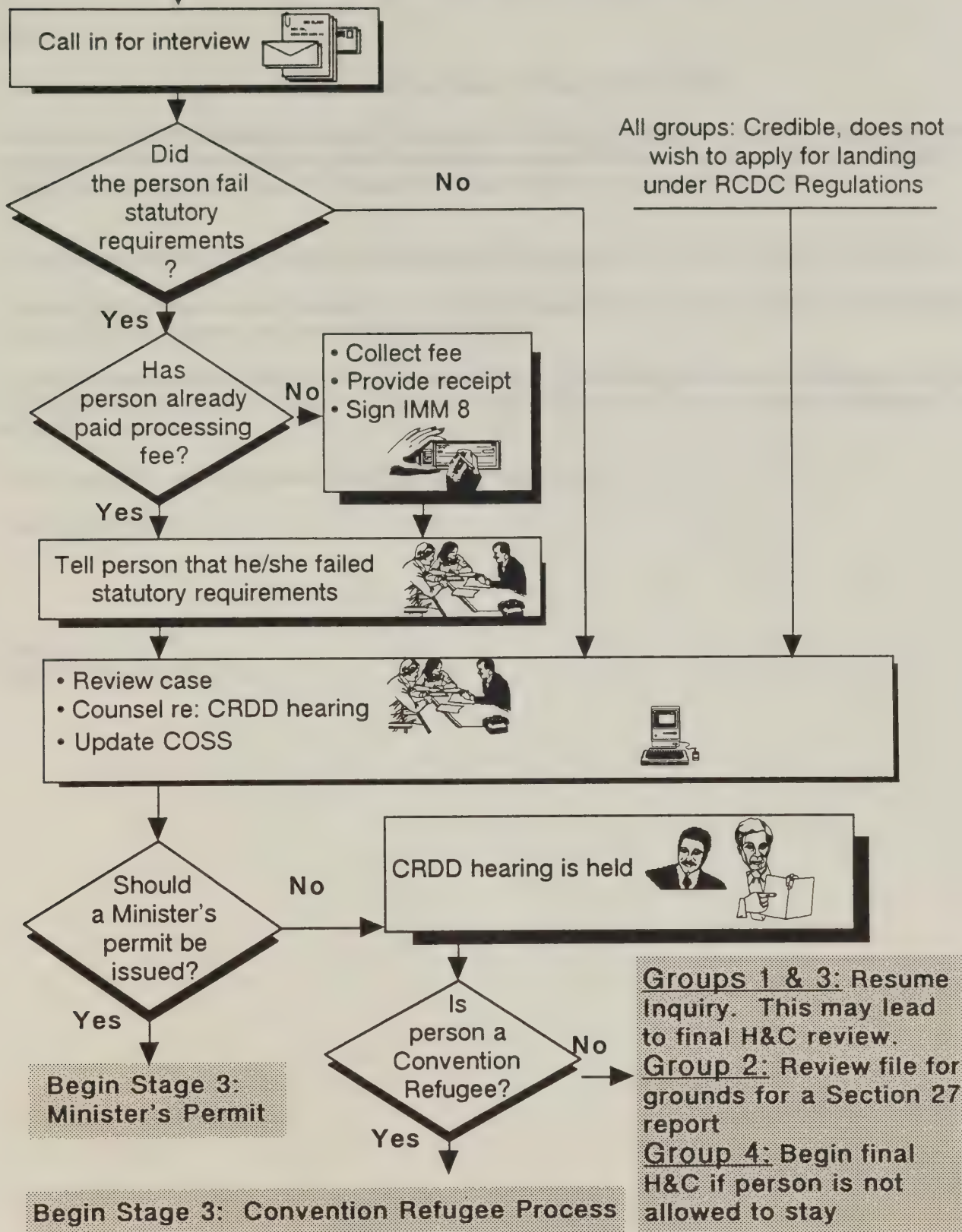
Summary Table This table describes what the CIC Officer does after reviewing the files concerning a Section 27 report

DECISION	DESCRIPTION	RESULT
When there are grounds for a Section 27 report	<ul style="list-style-type: none">• cancel the permit• write a report	If a direction for an inquiry is issued, the SIO causes an inquiry to be held
When there are no grounds for a Section 27 report	Determine whether the person should be allowed to remain on permit using the following procedures: <ul style="list-style-type: none">• send the person a letter which gives the Commission's intention to cancel the permit, the reasons for the decision, and the possibility of removal from Canada (App. G1)• review the information in the file and any submission from the person	<ul style="list-style-type: none">• if there are reasons for the person to stay on a Minister's permit, follow the Minister's Permit Process• if the person does <u>not</u> make a written submission regarding the decision OR if the person makes a submission that does <u>not</u> change the original decision, consider a formal Direction to Leave according to A37(5) and follow procedures for a final H and C review

Related Pages

Flowchart for CRDD hearing

Groups 1, 2, 3, 4 Credible, ineligible to apply for landing under RCDC Regulations
OR Credible, failed statutory requirements



G1: Letter - Intent to cancel Minister's permit

Dear

This letter refers to your immigration status in Canada. Please read it carefully.

An adjudicator and Convention Refugee Determination Division (CRDD) member have determined that your claim to Convention refugee status does not have a credible basis. You were issued a Minister's Permit authorizing you to come into/remain in Canada as you are a person described in...

Pursuant to subsection 37(4) of the Immigration Act, the Minister now intends to cancel your Permit.

You may submit written submissions to this office with respect to this decision. You may also choose to speak with an immigration officer to discuss this decision.

If you do not make any submissions or if the submissions do not change the original decision, you will receive notification that your Minister's Permit is cancelled. Steps will then be initiated to have you removed from Canada.

If you change your address, please notify this office immediately.

Yours sincerely,

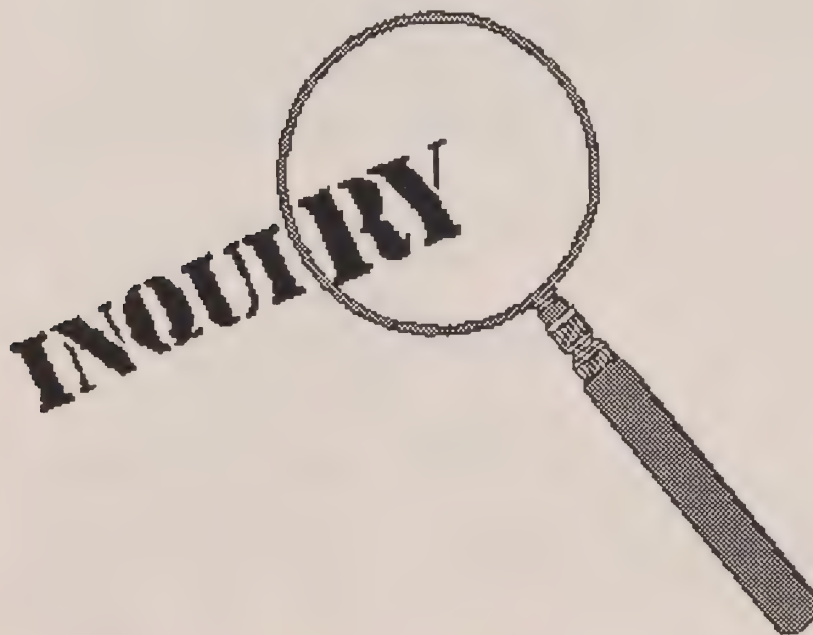
Manager
Canada Immigration Centre

Stage 2: Deciding which claimants to accept

Inquiry

Table of Contents

	Page #
Inquiry.....	173
Who gets an inquiry?.....	174
How to prepare for an inquiry.....	175
The Inquiry process for Group 4.....	176
Inquiry process for persons in Group 4 found credible	177
Spare.....	178
Spare.....	179
Spare.....	180
H1: Call-in Notice - Inquiry (Group 4).....	181
H2: Spare.....	182
H3: Spare.....	183
H4: Spare.....	184



Who gets an inquiry?

- Introduction**
- For Groups 1 and 3, an inquiry had been adjourned under A45(1) when the person entered the backlog process.
 - For Group 2, the claim is not dealt with at an inquiry.
 - For Group 4, an inquiry has not been adjourned under A45(1).

Summary Table

This table describes the action taken in various situations.

SITUATION	ACTION	REFER TO...
Groups 1 and 3 • found not credible at a panel hearing	Resume inquiry.	Panel hearing, p. 102
Groups 1 and 3: • received a negative decision at the CRDD hearing	Resume inquiry.	CRDD hearing, p. 158
Group 2: • received a negative decision at the panel or CRDD hearing AND • have grounds for a Section 27 report	Open an inquiry.	Grounds for a Section 27 report, p. 164
Group 4 • received a negative decision at the initial H & C interview AND • refused to leave voluntarily or are from an IC 1.22 (1)(b) country AND • are subject of an A20 report or a direction for inquiry (A27(3))	Open an inquiry.	How to prepare for an inquiry, p. 175
Group 4: • received a positive decision on the initial H & C review AND • fail to meet the statutory requirements and are <u>not</u> issued a Minister's permit AND • are subject of an A20 report or a direction for inquiry (A27(3))		The Inquiry Process for Group 4, p. 176

Fact



In-status persons from Group 4 follow the Group 2 procedures to determine if their claim is credible. In-status claimants do not have an inquiry.

Related Pages

How to prepare for an inquiry

Procedure Table

This table describes what the CIC officer does prior to an inquiry.

STEP	DESCRIPTION
1.	Counsel the person on the inquiry and refugee determination process
2.	Complete the Case Claim Highlights Form
3.	Advise the SIO to cause an inquiry to be held
4.	Give the person a letter which states the date and place of the inquiry (Appendix H1) 
5.	Update COSS 

Related Pages

Procedures for handling 'no-show' at a panel hearing or inquiry, p. 106

Appendix H1: Call-in Notice - Inquiry (Group 4), p. 181

The Inquiry process for Group 4

Introduction At an inquiry for persons in Group 4, the adjudicator and the CRDD member determine:

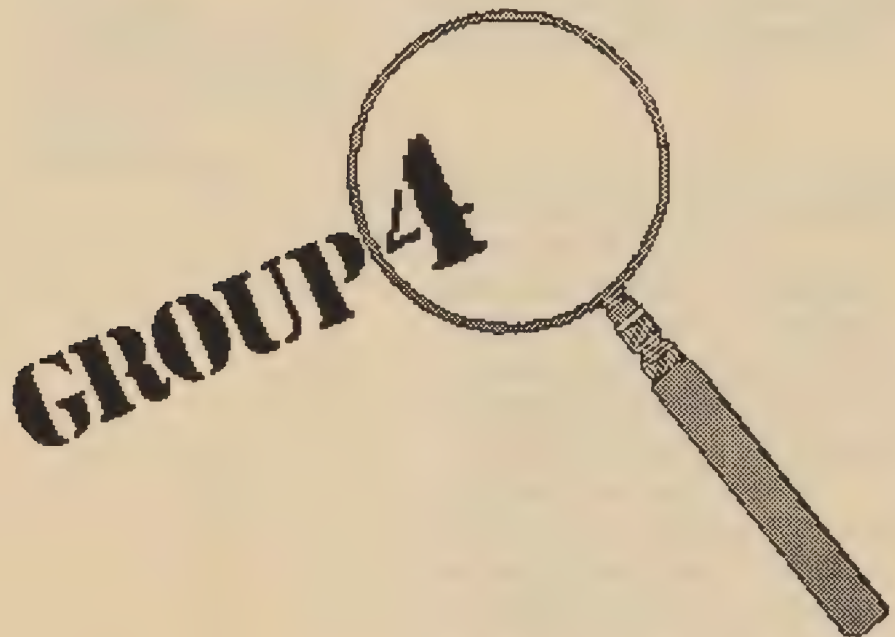
- whether the person is eligible to make a claim AND
- whether the claim has a credible basis

Description

- When persons in Group 4 are determined to be **not** credible during the inquiry, the inquiry continues and may lead to a removal order or departure notice.
- When person in Group 4 are determined to be credible during the inquiry, the adjudicator may adjourn the inquiry to allow the person to make an application for landing under the RCDC regulations.

Preview The following page describes what happens during an inquiry when persons in Group 4 are found to be credible.

**Related
Pages**



Inquiry process for persons in Group 4 found credible

Description

When persons in Group 4 are found credible and **not** eligible to apply for landing under RCDC regulations, when the inquiry is concluded, a CRDD hearing is scheduled.

Summary Table

This table describes what happens at the inquiry when Group 4 persons are found credible and eligible to apply for landing under RCDC regulations.

ACTION	RESULTS
The Case Presenting Officer and the person or their designated representative request an adjournment of the inquiry if: <ul style="list-style-type: none">the person is eligible to apply for landing under RCDC regulations ANDthere is no evidence that the person cannot meet statutory requirements.	If the adjournment is granted, then the person applies for landing under RCDC regulations: <ul style="list-style-type: none">if the person meets statutory requirements then he or she is processed for landingif the person fails the statutory requirements and a Minister's permit is not issued, the SIO causes the inquiry to be resumed; the adjudicator may issue a conditional removal order or departure notice; a CRDD hearing is scheduled
	If the adjournment is not granted , the adjudicator can decide to: <ul style="list-style-type: none">allow the person to come into Canada for further examination by an immigration officer if A20 allegations were based on 19(2)(d) - 9(1) or 19(2)(d) - 14(1), and then conclude the inquiry ORconclude the inquiry. At this time, the adjudicator may issue a conditional removal order or departure notice. The person may then apply for landing under RCDC regulations.

Related Pages

Assessing statutory requirements, pp. 135-154

H1: Call-in Notice - Inquiry (Group 4)

CIC File No.: _____

Dear

This refers to your recent interview regarding your immigration status in Canada. Your case has been reviewed, and it has been determined that there are insufficient humanitarian and compassionate grounds upon which to accept an application for permanent residence.

An inquiry has been scheduled for you at _____ on _____. At the inquiry the adjudicator will determine whether you can remain in Canada or whether a removal order or departure notice shall be made against you. The adjudicator and a member of the Convention Refugee Determination Division will also determine whether you are eligible to have your claim determined by the Refugee Division and if you have a credible basis for a claim to refugee status. Persons in the refugee backlog whose claims are found to have a credible basis may be eligible to apply for permanent residence from within Canada.

Should you wish to be represented by counsel at your inquiry, your counsel must accompany you. Please ensure that your counsel is fully prepared to address all issues as we intend to conclude the inquiry on this date.

Please advise this office immediately if you are unable to appear for your inquiry.

Yours sincerely,

Immigration Officer

Stage 2--Deciding which claimants to accept

Final Humanitarian and Compassionate Review

Table of Contents

	Page #
Final Humanitarian and Compassionate Review.....	185
What is a final H and C review? (Pre-removal review)	186
How to arrange a final H and C review.....	187
After a positive final H and C review	188
After a negative final H and C review	189
Spare.....	190
Spare.....	191
Spare.....	192
I1: Pre-removal Decision Form - Positive.....	193
I2: Pre-Removal Decision Form - Negative.....	194
I3: Spare.....	195
I4: Spare.....	196
I5: Spare.....	197

**FINAL
H&C**

Description	<p>The final Humanitarian and Compassionate review is sometimes called a "Pre-removal review."</p> <p>It is the last assessment in Stage 2: Deciding which claimants to accept.</p> <p>It is held at NHQ in the following situations:</p> <ul style="list-style-type: none">• after the adjudicator has issued a removal order or a departure notice to the person, OR• for Group 2, when the officer thinks a Direction to Leave pursuant to A37(5) should be issued.
Roles	<p>The Minister's delegate makes the final H and C decision, after reviewing the recommendation of the RBRU.</p>
Related Pages	Related IS 12 Material

How to arrange a final H and C review

Procedure Table

This table explains how the officer sets up the final H and C review.

STEP	DESCRIPTION
1.	Complete Part III of the H and C Summary (Appendix B7)
2.	Make up a report consisting of: <ul style="list-style-type: none">• H and C Summary(Appendix B7)• a copy of PIF• the person's submission• copies of the panel/CRDD decision(s)• any documents relating to:<ul style="list-style-type: none">• admissibility• H and C grounds• details of dependants' passport(s)• consideration of Ministerial deportation, if applicable
3.	If there is a departure notice, highlight the date by which the person must leave Canada so that he/she may be informed of the final H and C decision before that date
4.	In urgent cases (e.g. detainees), send the report by FAX to (819)-953-8378, or by courier, as appropriate. In non-urgent cases, send the report by Priority Post to: Refugee Backlog Review Unit - H and C Review Place du Portage, Phase II 165 Hotel de Ville Street 8th Floor North HULL K1A 0J9

Related Pages

After a positive final H and C review

Fact

The Minister's delegate makes the final H and C decision, after reviewing the recommendation of the RBRU.

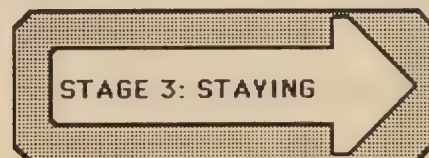
Procedure Table

This table describes how a positive decision is implemented.

STEP	DESCRIPTION	FORM
1.	The RBRU notifies the CIC of the decision	Pre-removal Decision Form - Positive (Appendix I1)
2.	The RBRU completes the IMM 655 and forwards it to the Order in Council Section.	Request for Special Authority from the Governor-in-Council
3.	The RBRU waits for the O-I-C approval.	
4.	Once the O-I-C approval is received, the CIC is informed.	
5.	The officer begins Stage 3.	

Related Pages

Staying in Canada, pp 235-254



After a negative final H and C review

Fact

The Minister's delegate makes the final H and C decision, after reviewing the recommendation of the RBRU.

Procedure Table

This table describes how a negative decision is implemented.

STEP	DESCRIPTION	FORMS
1.	The RBRU notifies the CIC of the decision	Pre-removal Decision Form - Negative (Appendix I2)
2.	The officer begins Stage 3-- Removal.	

Related Pages

Removal, pp. 273-283



I1: Pre-removal Decision Form - Positive

To: Backlog CIC

HQ File No.
CIC File NO.

From: Refugee Backlog Review Unit

Re: _____
(name)

(Date of Birth)

(Place of Birth)

The Minister has determined that there are sufficient humanitarian and compassionate grounds to accept and process an application for permanent residence for the above named.

This office will submit a request for an Order-in-Council waiver.

Bureau Head

I2: Pre-Removal Decision Form - Negative

To: Backlog CIC

HQ File No.

CIC File NO.

From: Refugee Backlog Review Unit

Re: _____
(name)

(Date of Birth)

(Place of Birth)

The Minister has determined that there are insufficient humanitarian and compassionate grounds to accept and process an application for permanent residence for the above named.

☐ Please proceed as soon as possible with removal action.

☐ Please temporarily delay removal until it has been determined that the order can be carried out without risk to the individual.

Bureau Head

Scenarios

Table of Contents

	Page #
Scenarios	198
Introduction to the scenarios	199
Scenario # 1: Landing.....	200
Scenario # 2: Removal.....	202
Scenario # 3: Minister's Permit	204
Scenario # 4: Voluntary Departure	206
Scenario # 5: Landing.....	208
Scenario # 6: Removal.....	210
Scenario # 7: Landing.....	212
Scenario # 8: Removal.....	214
Scenario # 9: Minister's Permit	216
Scenario # 10: Convention Refugee.....	218
Scenario # 11: Convention Refugee.....	220
Scenario # 12: Removal.....	222
Scenario # 13: Landing.....	224
Scenario # 14: Removal.....	226
Spare.....	228
Spare.....	229
Spare.....	230
Spare.....	231

Introduction to the scenarios

Review	Decision charts were presented in the overview section of this manual. They summarized the possible ways in which decisions could be arrived at for each of the groups of claimants in Stage 2.
Purpose	<p>The purpose of this section is to:</p> <ul style="list-style-type: none">• provide you with practice in reading and using the decision charts• introduce <u>some</u> of the decision flows which you will encounter with the cases you handle
Fact	The scenarios in this section <u>are not</u> a complete listing of all the types of cases you are likely to encounter. They represent only a <u>small sampling</u> of the possible ways cases will be processed.
Description	<p>There are fourteen scenarios presented in this section. These scenarios illustrate all of the possible exit routes as well as the major review points in the process.</p> <p>The title of the scenario contains the name of the exit route it illustrates.</p> <p>While some scenarios are specific to a particular group, many of the decision flows could apply to more than one group.</p>
Example	Scenario # 10 deals with a Group 3 claimant who is found to be a Convention Refugee. While this is the only scenario where a claimant is found to be a Convention Refugee, on the job you may encounter claimants from Groups 1, 2, and 4 who qualify as Convention Refugees.
Related Pages	

Scenario # 1: Landing

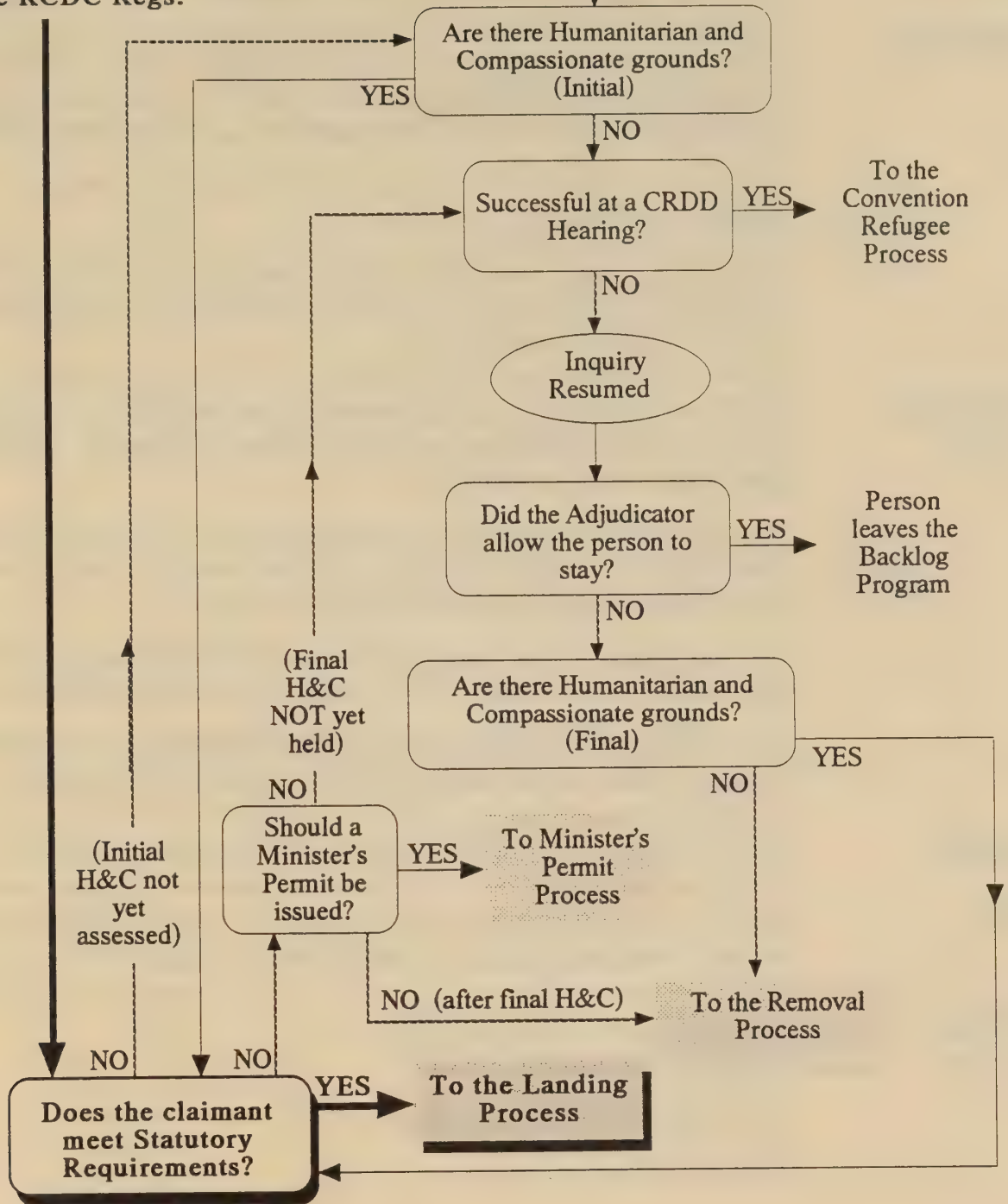
Introduction	This scenario shows the most streamlined Stage 2 path a Group 1 claimant could follow on the route to being processed for landing. It should take less time than other more complex paths since it can be handled exclusively by local CIC officers.
Situation	<p>Mrs A arrived in Canada in January, 1987 and made a refugee claim at once. Her inquiry has been adjourned. She was examined under oath in August 1987.</p> <p>In Stage 1 it was determined that Mrs A. should be processed as a Group 1 claimant.</p> <p>In Stage 1 it was also determined that she had a credible claim and was eligible to apply for landing under the RCDC regulations.</p>
Decision Flow	Mrs A. applied for landing. As a result of the investigations and assessments conducted in response to her application, she was found to meet the statutory requirements for landing.
Result	Mrs A.'s case goes to the Landing Process part of Stage 3.
Related Pages	Assessing statutory requirements, pp. 135-154 Staying in Canada, pp 235-254

Scenario # 1

GROUP 1: Found Credible by the RBRU

Stage 2 starts here for
Group 1 Credible
Claims which are
Eligible to Apply
under the RCDC Regs.

Stage 2 starts here for Group 1 Credible
Claims which are NOT Eligible to
Apply under the RCDC Regs.



Scenario # 2: Removal

Introduction This scenario shows how a decision to remove a claimant can be reached. In this case the claimant is from Group 1 and has a credible claim.

The scenario shows how the claimant has the opportunity to have the case reviewed by all of the review mechanisms built into the process before the final removal decision is reached.

Situation

Mr B arrived as a visitor to Canada in March, 1987. He made a refugee claim three months later in June 1987. His inquiry has been adjourned. He was examined under oath in November, 1987.

In Stage 1 it was determined that Mr B. should be processed as a Group 1 claimant.

In Stage 1 it was determined that he had a credible claim. However, it was also determined that he was not eligible to apply for landing under the RCDC regulations.

Decision Flow

Mr B.'s case was initially reviewed in the local CIC to determine if there were Humanitarian and Compassionate grounds. **No H&C grounds were identified.**

Mr. B was then scheduled to appear before a Convention Refugee Determination Division hearing. At this hearing it was determined that Mr. B was **not a Convention Refugee.**

Mr. B.'s inquiry was then resumed and the adjudicator did **not allow Mr. B. to stay in Canada** and issued a departure notice.

Mr. B. then had a final review for Humanitarian and Compassionate grounds. There were still **no H&C grounds identified.**

Result

Mr B.'s case goes to the **Removal Process** part of Stage 3.

Fact

Mr. B. is not counselled about voluntary departure because he had already been determined to have a credible claim.

Related Pages

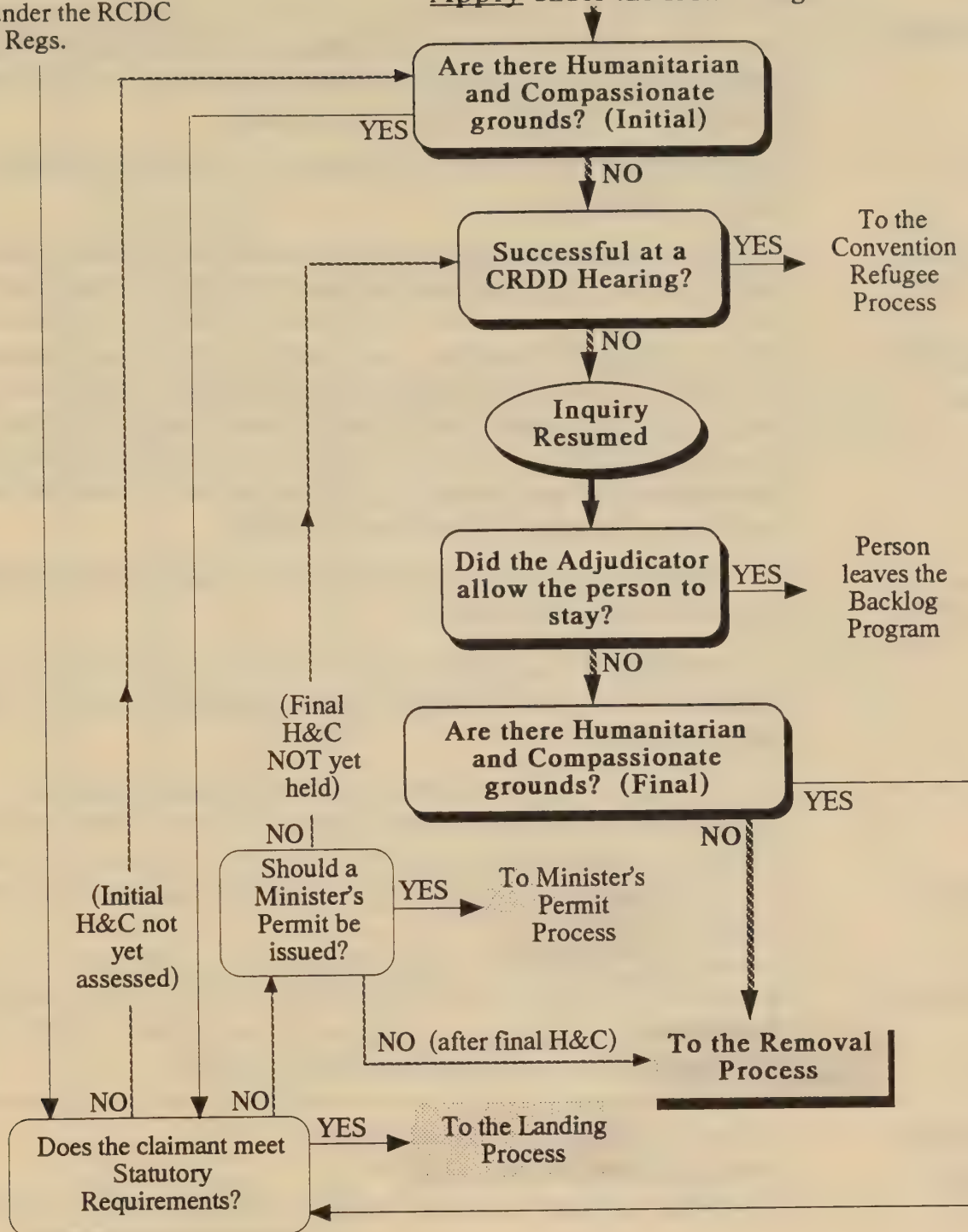
Initial H&C review, pp. 55-81
CRDD hearing, pp. 158-169
Inquiry, pp. 173-181
Final H&C review, pp. 185-194
Removal, pp. 273-283

Scenario # 2:

GROUP 1: Found Credible by the RBRU

Stage 2 starts here for Group 1 Credible Claims which are Eligible to Apply under the RCDC Regs.

Stage 2 starts here for Group 1 Credible Claims which are NOT Eligible to Apply under the RCDC Regs.



Scenario # 3: Minister's Permit

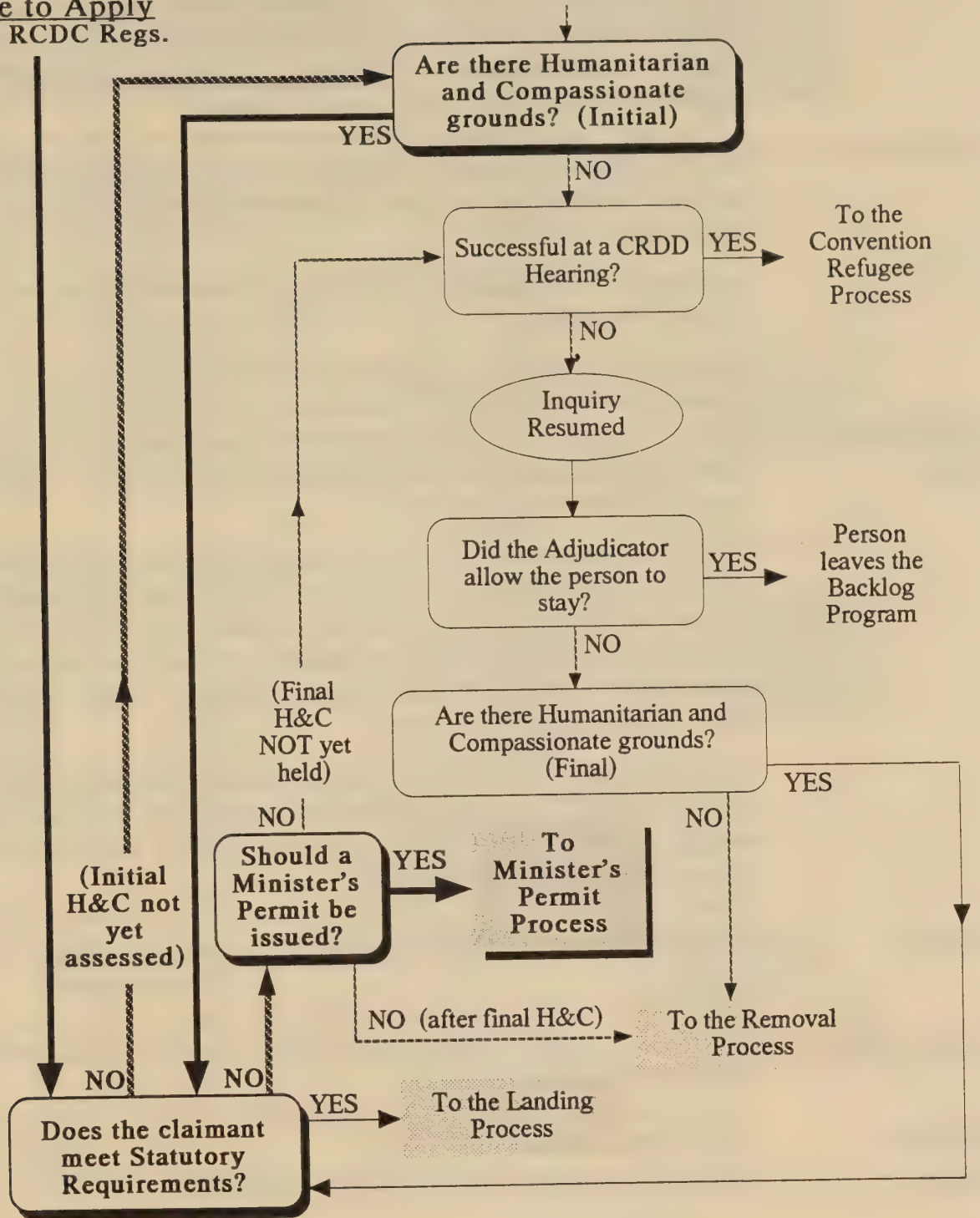
Introduction	<p>This scenario covers a situation where discretion must be exercised to resolve a conflict between two opposing decisions:</p> <ul style="list-style-type: none">• a person fails to meet statutory requirements, and• a person was found to have Humanitarian and Compassionate grounds.
Situation	<p>Mrs C. arrived in Canada in February, 1987 and made a refugee claim at once. Her inquiry has been adjourned. She was examined under oath in October, 1987.</p> <p>In Stage 1 it was determined that Mrs. C. should be processed as a Group 1 claimant.</p> <p>In Stage 1 it was also determined that she had a credible claim and was eligible to apply for landing under the RCDC regulations.</p>
Decision Flow	<p>Mrs. C. applied for landing. As a result of the investigations and assessments conducted in response to her application, it was found that she had been convicted of stealing some winter clothing shortly after she had arrived. While she had admitted the theft, she had claimed that she was virtually penniless at the time and did not have the clothes necessary to survive the winter.</p> <p>As a result of the conviction she failed to meet the statutory requirements for landing.</p> <p>In reviewing her case, the local CIC officer found that there were Humanitarian and Compassionate grounds based on family dependency factors.</p> <p>In this case, the Humanitarian and Compassionate grounds outweighed the theft conviction, and a Minister's permit was issued.</p>
Result	<p>Mrs. C.'s case goes to the Minister's Permit Process part of Stage 3.</p>
Comment	<p>If the CIC manager had found that the failure to meet statutory requirements had been more serious, outweighing the H&C grounds, the case would be referred to a CRDD Hearing.</p>
Related Pages	<p>Assessing statutory requirements, pp. 135-154 Final H&C review, pp. 185-194 Allowing a person to remain under a Minister's permit, p. 244</p>

Scenario # 3:

GROUP 1: Found Credible by the RBRU

Stage 2 starts here for
Group 1 Credible
Claims which are
Eligible to Apply
under the RCDC Regs.

Stage 2 starts here for Group 1 Credible Claims
which are NOT Eligible to Apply under the
RCDC Regs.



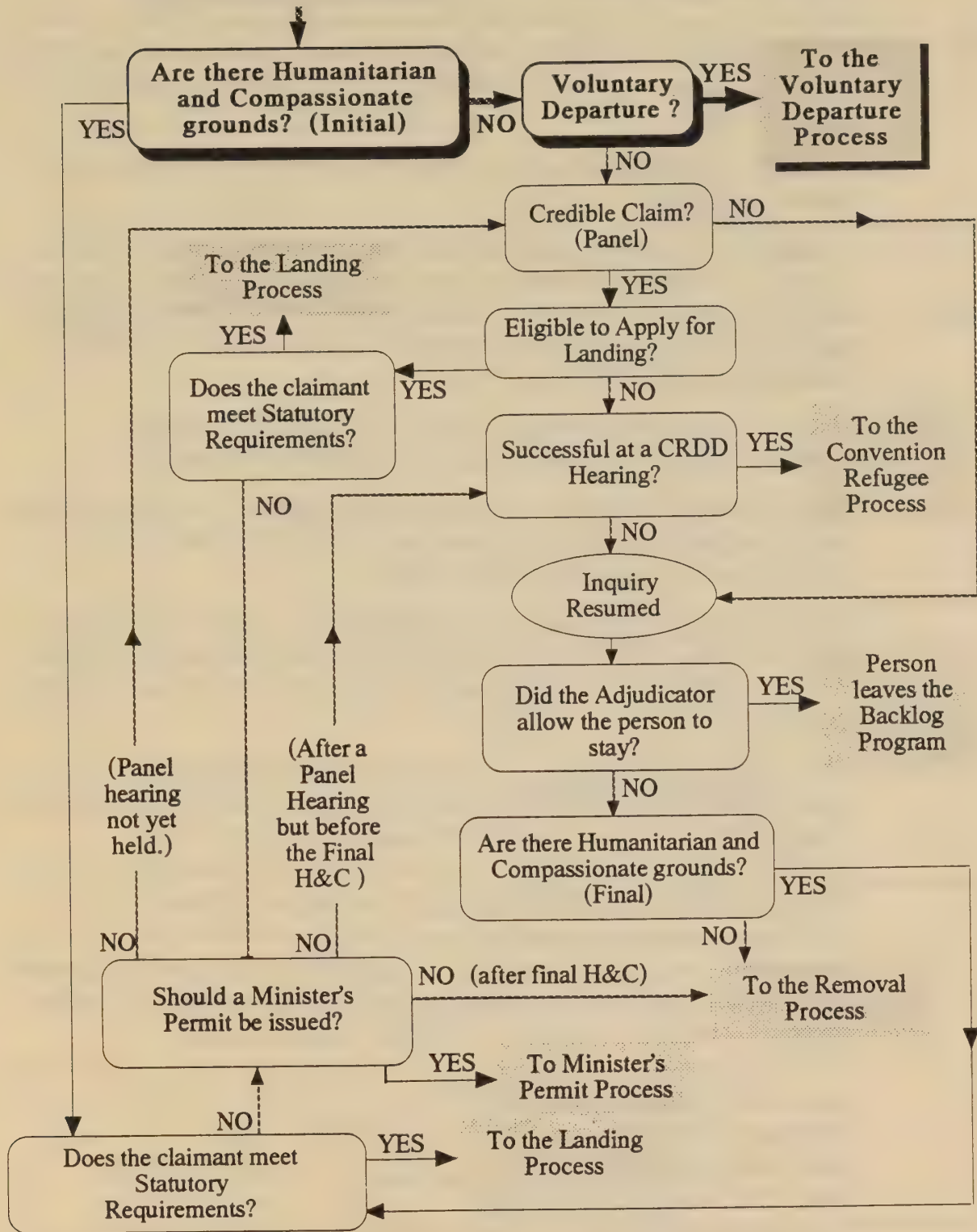
Scenario # 4: Voluntary Departure

Introduction	<p>This scenario covers a situation where a person has established himself in Canada since his arrival and applied as a refugee.</p> <p>As a result of the progress of his claim to date, the claimant may decide that he will not be successful in his claim. However, he thinks that he could be successful in applying for landed immigrant status from outside of Canada. He is encouraged by the opportunity to receive a letter of introduction and a guarantee of an interview if he applies for immigrant status outside Canada.</p>
Situation	<p>Mr. D. arrived in Canada in March, 1987 and made a refugee claim at once. His inquiry has been adjourned. He was examined under oath in October, 1987.</p> <p>In Stage 1 it was determined that Mr. D. should be processed as a Group 1 claimant.</p> <p>In Stage 1 his claim was screened non-credible.</p>
Decision Flow	<p>Mr. D.'s case was initially reviewed in the local CIC to determine if there were Humanitarian and Compassionate grounds. No H&C grounds were identified.</p> <p>After the decision of the initial Humanitarian and Compassionate review was provided to Mr. D., the CIC officer informed Mr. D. that he could either proceed with his claim at a Panel Hearing or he could voluntarily depart from Canada in which case he would be guaranteed an interview if he then applied for landed immigrant status from outside of Canada.</p> <p>Mr. D. decided that since his work skills were in high demand and that he was very well established in Canada, he would give up his refugee claim, voluntarily depart and apply for landed immigrant status from outside of Canada.</p>
Result	<p>Mr. D.'s case goes to the Voluntary Departure Process part of Stage 3.</p>
Comment	<p>If Mr. D. is from a "scheduled" country, he would <u>not</u> be offered the Voluntary Departure option.</p>
Related Pages	<p>Initial H&C review, pp. 55-81 Voluntary departure, pp. 88-98, pp. 258-269</p>

Scenario # 4:

GROUP 1: Screened Non-Credible by the RBRU

**Stage 2 starts here for claims
Screened NON-Credible**



Scenario # 5: Landing

Introduction This scenario covers a situation where by following the review processes through to the end a claimant can be successful in obtaining landed immigrant status.

Situation Ms. E. arrived in Canada in March, 1987 and made a refugee claim at once. Her inquiry has been adjourned. She was examined under oath in October, 1987.

In Stage 1 it was determined that Ms. E. should be processed as a Group 1 claimant.

In Stage 1 it was also found that she did not have a credible claim.

Decision Flow Ms. E.'s case was initially reviewed in the local CIC to determine if there were Humanitarian and Compassionate grounds. **No H&C grounds were identified.**

Ms. E. decided that her best chance was to pursue her claim. Therefore she did not voluntarily depart from Canada.

The Panel Hearing decided that she did not have a credible claim and the adjudicator did not allow her to stay in Canada. The adjudicator also issued a removal order.

However, at the final review for Humanitarian and Compassionate grounds, it was determined that she would face inhumane treatment if she returned to her home country. Therefore, **there were H&C grounds.**

Ms. E. applied for landing. As a result of the investigations and assessments conducted in response to her application, she was found to **meet the statutory requirements** for landing.

Result Ms..E.'s case goes to the **Landing Process** part of Stage 3.

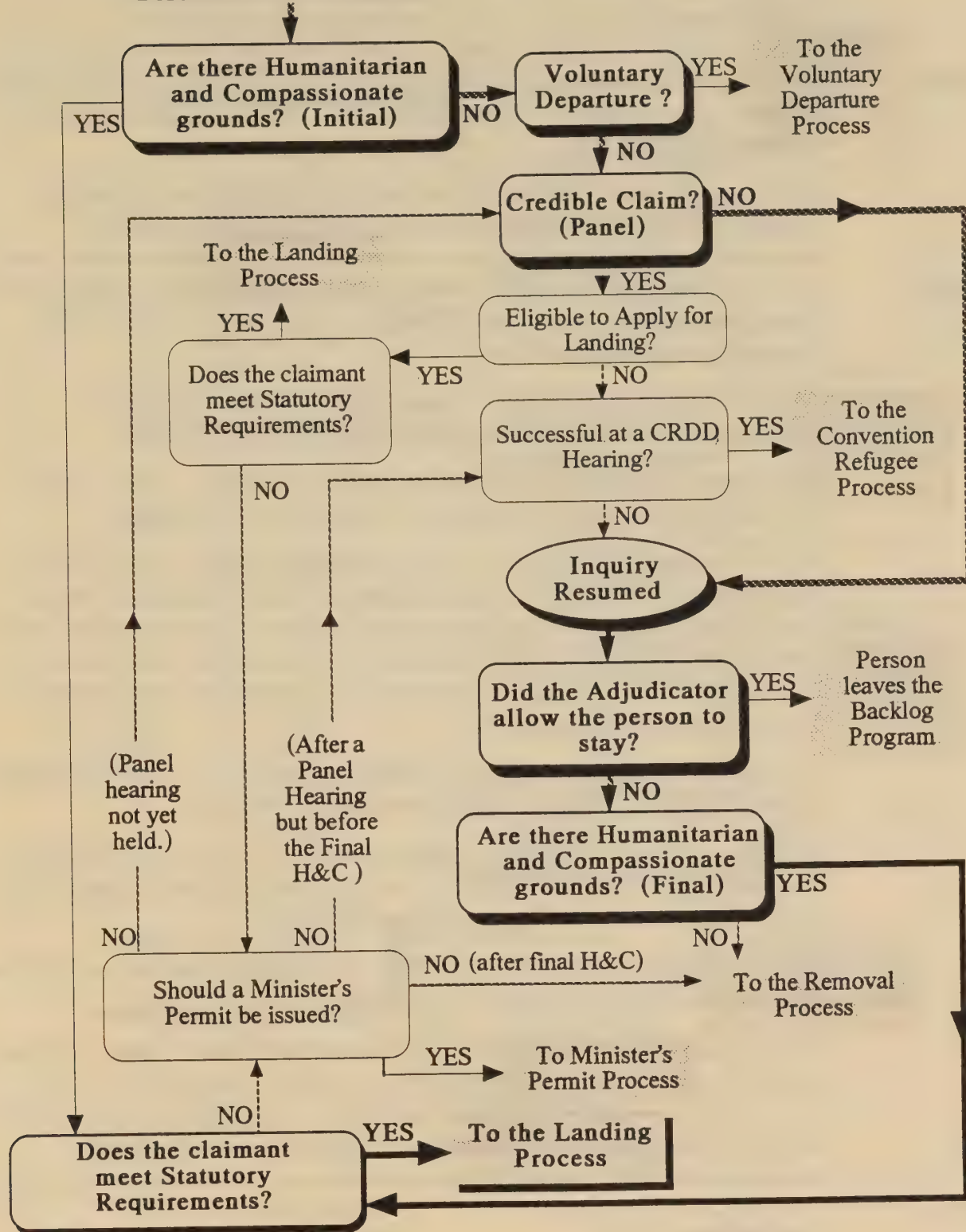
Fact During the Landing Process, Ms. E. will need to execute the removal order by leaving Canada and then complete the landing process by presenting herself at the Port of Entry.

Related Pages Initial H&C review, pp. 55-81
Voluntary departure, pp. 88-98, pp. 258-269
Panel hearing, pp. 102-114
Final H&C review, pp. 185-194
Assessing statutory requirements, pp. 135-154
Landing, pp 237-238

Scenario # 5

GROUP 1: Screened Non-Credible by the RBRU

Stage 2 starts here for claims Screened NON-Credible



Scenario # 6: Removal

Introduction This scenario shows how the review processes can lead to allowing a claimant to apply for landing. It also shows how the case returns to the review processes if the claimant fails to meet statutory requirements.

Situation Mr. F. arrived in Canada in March, 1987 and made a refugee claim at once. His inquiry has been adjourned. He was examined under oath in October, 1987.

In Stage 1 it was determined that Mr. F. should be processed as a Group 1 claimant and that he did not have a credible claim.

Decision Flow Mr. F.'s case was initially reviewed in the local CIC to determine if there were Humanitarian and Compassionate grounds. **No H&C grounds were identified.**

Mr. F. decided that his best chance was to pursue his claim. Therefore he did not voluntarily depart from Canada.

The Panel Hearing decided that he **had a credible claim** and the CIC decided that he **was eligible to apply for landing**.

Mr. F. applied for landing. It was found that in the period since he had arrived and was given permission to work, he had not found work of any kind nor has he shown diligence in trying to find work. In this period he applied for and received welfare. There is no indication that he is likely to succeed in finding work and remove himself from welfare.

As a result of the his apparent inability to support himself, he **failed to meet the statutory requirements** for landing.

Mr. F. was then scheduled to appear before a Convention Refugee Determination Division hearing. At this hearing it was determined that Mr. F. was **not a Convention Refugee**.

Mr. F.'s inquiry was then resumed. The adjudicator did **not allow Mr. F. to stay in Canada** and issued a removal order.

Mr. F. then had a final review for Humanitarian and Compassionate grounds. There were still **no H&C grounds identified**.

Result Mr. F.'s case goes to the **Removal Process** part of Stage 3.

Related Pages

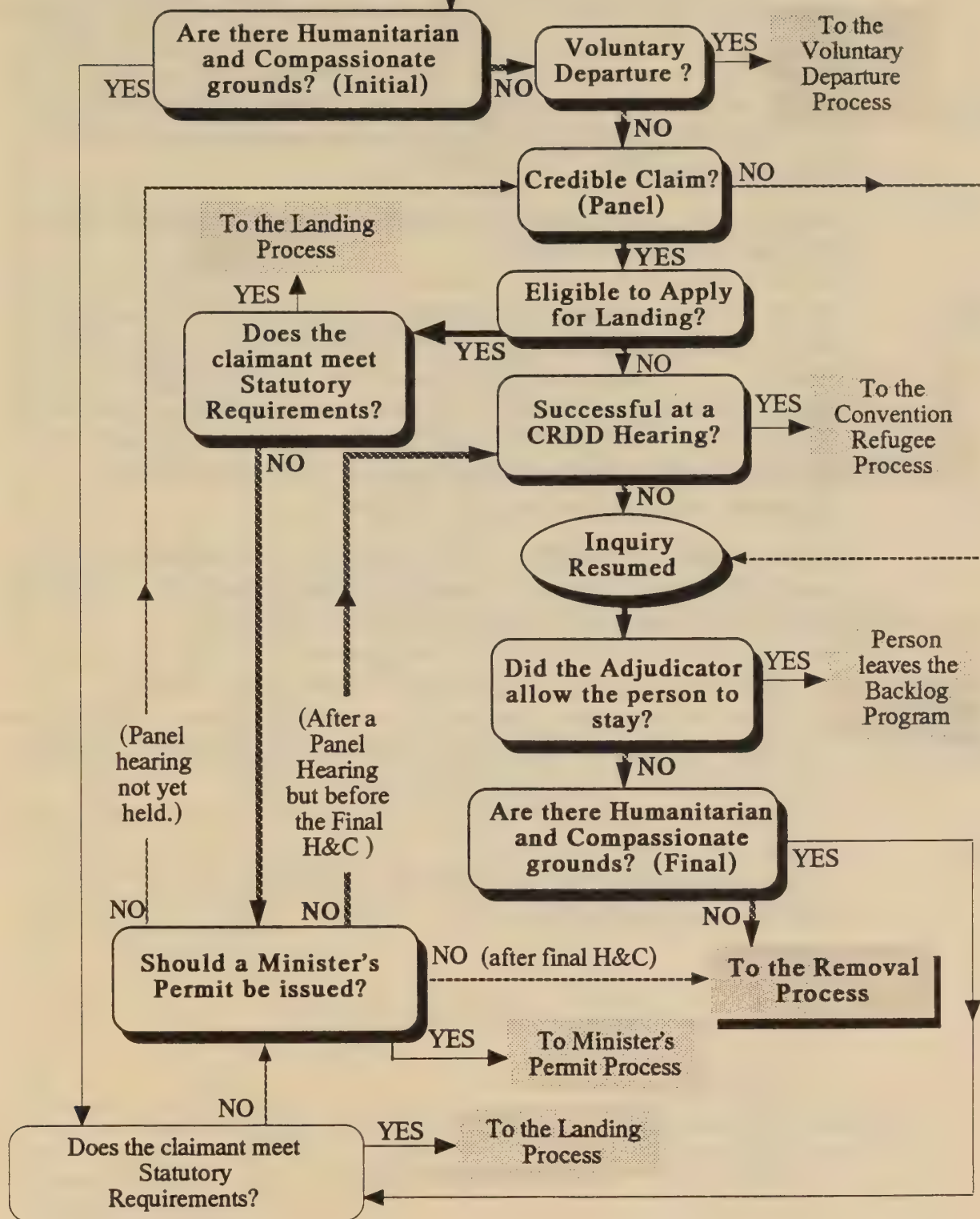
Initial H&C review, pp. 55-81
Panel hearing, pp. 102-114
Assessing statutory requirements, pp. 135-154
CRDD hearing, pp. 158-169
Final H&C review, pp. 185-194

Voluntary departure, pp. 88-98
Eligibility, pp. 118-131
Inquiry, pp. 173-181
Removal, pp. 273-283

Scenario # 6

GROUP 1: Screened Non-Credible by the RBRU

Stage 2 starts here for claims
Screened NON-Credible



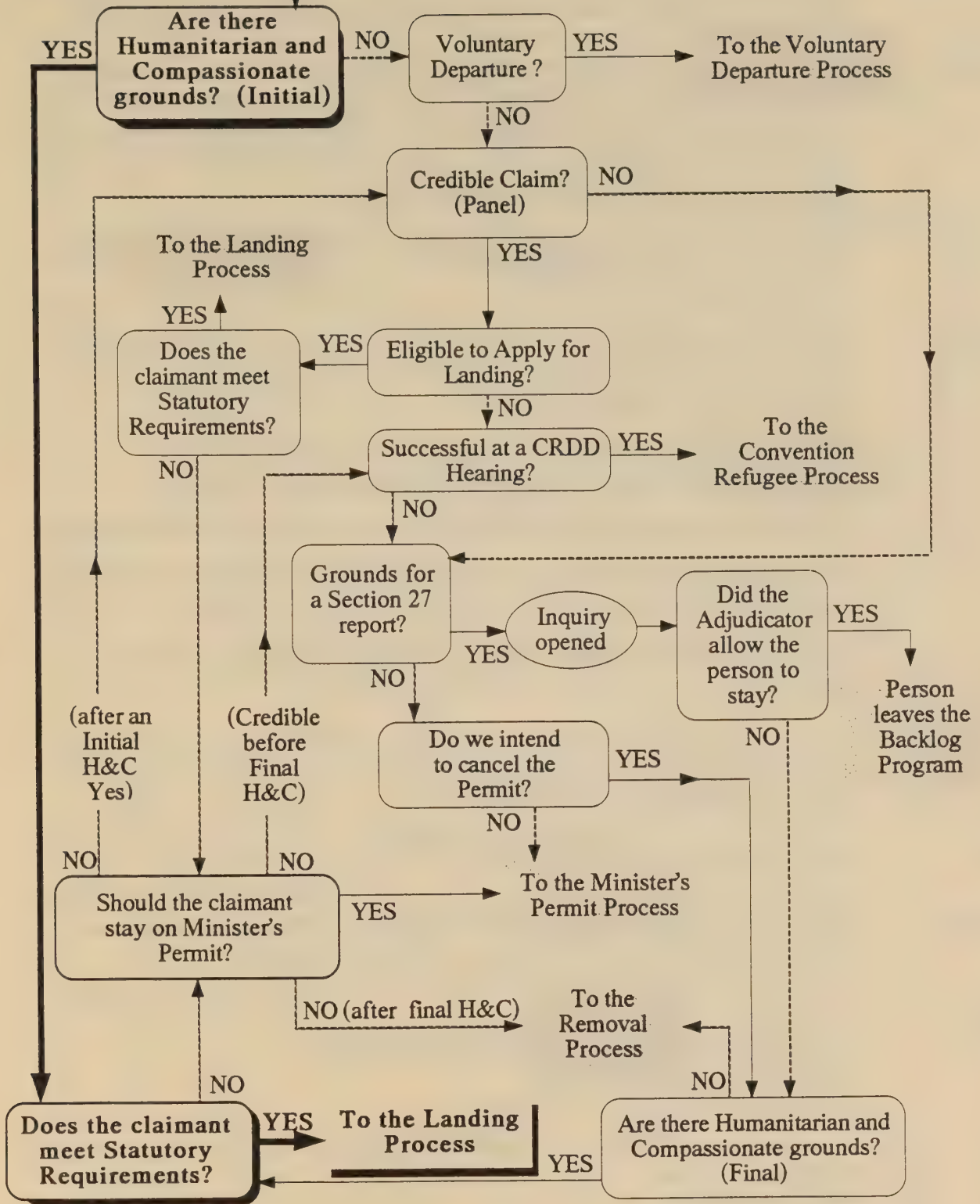
Scenario # 7: Landing

Introduction	<p>This scenario shows the most direct route to becoming landed for persons in Groups 2, 3 and 4. This route involves the least amount of reviews. The decision process can be handled entirely at the local CIC.</p>
Situation	<p>Ms. G. arrived in Canada in September, 1986. On arrival from a "B1" country, she made a claim for refugee status and was issued a Minister's Permit.</p> <p>Since Ms. G. is on a Minister's Permit, it was determined in Stage 1 that she is a Group 2 claimant.</p>
Decision Flow	<p>Ms. G.'s case was initially reviewed in the local CIC to determine if there were Humanitarian and Compassionate grounds. During a meeting she convinced the officer that she was the widowed, invalid aunt of a resident of Canada and that all of her relatives now live in Canada. She is supported by her family. The officer decided that these were sufficient Humanitarian and Compassionate grounds to permit her to apply for landing.</p> <p>Ms. G. applied for landing. As a result of the investigations and assessments conducted in response to her application, she was found to meet the statutory requirements for landing.</p>
Result	<p>Ms. G.'s case goes to the Landing Process part of Stage 3.</p>
Comment	<p>Since Ms. G. is being landed in Canada on H&C grounds, she will need to obtain an Order in Council waiver.</p>
Related Pages	<p>Initial H&C review, pp. 55-81 Assessing statutory requirements, pp. 135-154 Staying in Canada, pp. 235-254</p>

Scenario # 7

GROUP 2

Stage 2 starts here ↓



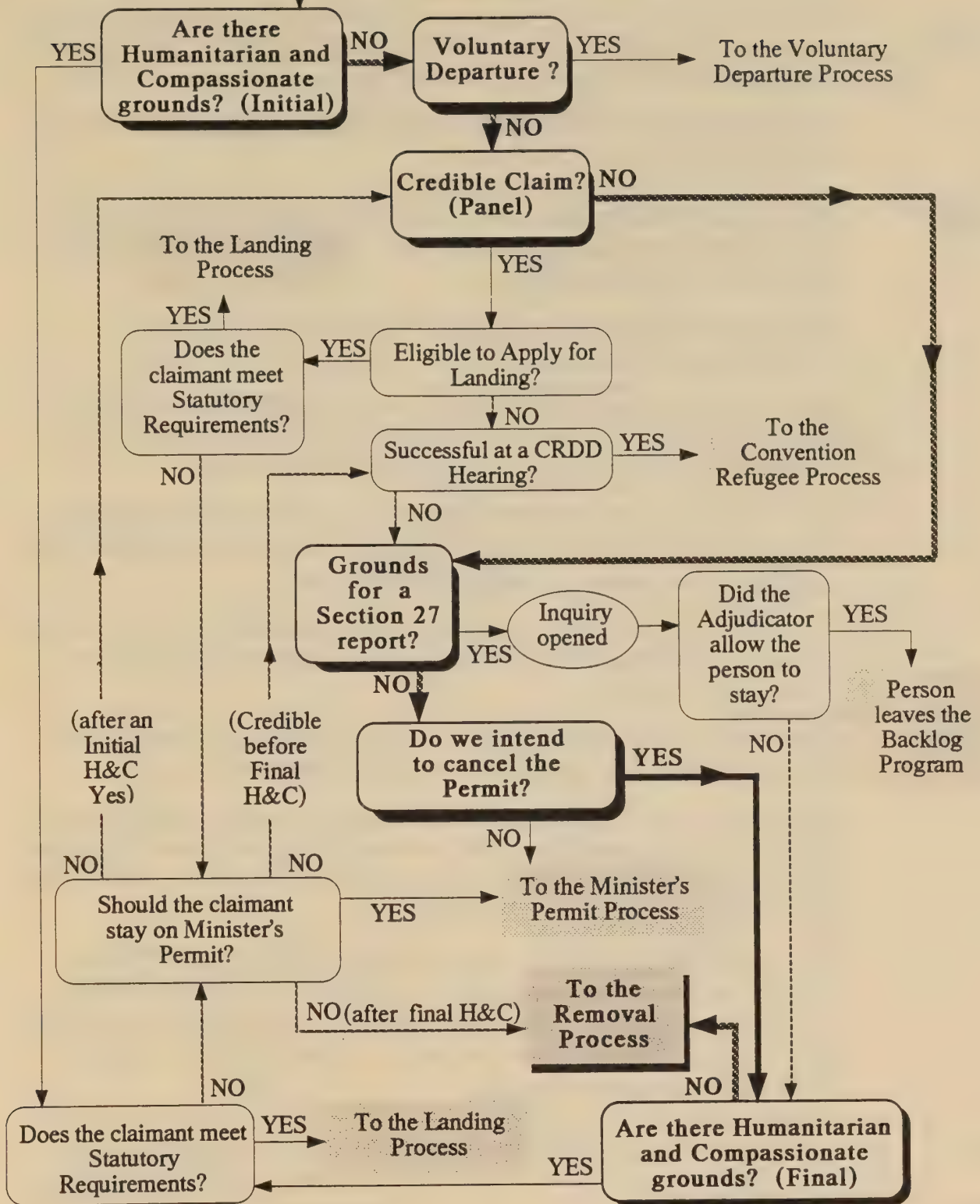
Scenario # 8: Removal

Introduction	This scenario shows how additional decisions must be made for persons in Group 2 since they are already on a Minister's Permit.
Situation	<p>Mr. H. arrived in October 1986. On arrival from a "B1" country, he had claimed to be a visitor. However, the immigration officer at the port of entry determined that Mr. H. was actually an immigrant who was arriving without a visa. Mr. H. then claimed refugee status. Therefore, he was issued a Minister's Permit.</p> <p>Since Mr. H. is on a Minister's Permit, it was determined in Stage 1 that he is a Group 2 claimant.</p>
Decision Flow	<p>Mr. H.'s case was initially reviewed in the local CIC to determine if there were Humanitarian and Compassionate grounds. No H&C grounds were identified.</p> <p>Mr. H. decided that his best chance was to pursue his claim. Therefore he did <u>not</u> voluntarily depart from Canada.</p> <p>The Panel Hearing decided that he did <u>not</u> have a credible claim.</p> <p>The local CIC has nothing on record to indicate that Mr. H. has done anything since his arrival to warrant a section 27 report.</p> <p>Mr. H. was then informed that his Minister's Permit would be cancelled.</p> <p>Prior to the cancellation of the Minister's Permit, Mr. H. had a final review for Humanitarian and Compassionate grounds. There were still no H&C grounds identified.</p>
Result	Mr.H.'s case goes to the Removal Process part of Stage 3.
Comment	Because the person is already on a Minister's Permit, the removal process involves more steps than a normal removal.
Related Pages	Initial H&C review, pp. 55-81 Voluntary departure, pp. 88-98, pp. 258-269 Panel hearing, pp. 102-114 Final H&C review, pp. 185-194 Removal, pp. 273-283

Scenario # 8

GROUP 2

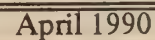
Stage 2 starts here ↓



Scenario # 9: Minister's Permit

Introduction	This scenario shows how additional decisions must be made for persons in Group 2 since they are already on a Minister's Permit.	
Situation	<p>Ms. I. arrived in September 1986. On arrival from a "B1" country, she claimed refugee status. She was issued a Minister's Permit.</p> <p>Since Ms. I. is on a Minister's Permit, it was determined in Stage 1 that she is a Group 2 claimant.</p>	
Decision Flow	<p>Ms. I.'s case was initially reviewed in the local CIC to determine if there were Humanitarian and Compassionate grounds. No H&C grounds were identified.</p> <p>Ms. I. decided that her best chance was to pursue her claim. Therefore she did <u>not</u> voluntarily depart from Canada.</p> <p>The Panel Hearing decided that she had a credible claim but it was apparent that she was not eligible to apply for landing since she had been out of the country for three weeks.</p> <p>Ms. I. was then scheduled to appear before a Convention Refugee Determination Division hearing. At this hearing it was determined that Ms. I. was not a Convention Refugee.</p> <p>However, Ms. I. failed her recent medical examination due to active T.B. A Section 27 report was warranted and her Minister's Permit was cancelled.</p> <p>An inquiry was opened for Ms. I. The adjudicator did not allow Ms. I. to stay in Canada and issued a removal order.</p> <p>However, at the final review for Humanitarian and Compassionate grounds, it was determined that she would face inhumane treatment if she returned to her home country. Therefore, there were H&C grounds.</p> <p>Ms. I. applied for landing. Her medical condition meant that she failed to meet Statutory Requirements. Since the medical condition was known at the time the H&C grounds were identified, Ms. I. would be issued a Minister's Permit at a Port of Entry after having departed Canada.</p>	
Result	Ms. I.'s case goes to the Minister's Permit Process in Stage 3.	
Related Pages	Initial H&C review, pp. 55-81 Panel hearing, pp. 102-114 CRDD hearing, pp. 158-169 Final H&C review, pp. 185-194 Minister's permit, p. 244	Voluntary departure, pp. 88-98, pp. 258-269 Eligibility, pp. 118-131 Inquiry, pp. 173-181 Assessing statutory requirements, pp. 135-154

GROUP 2

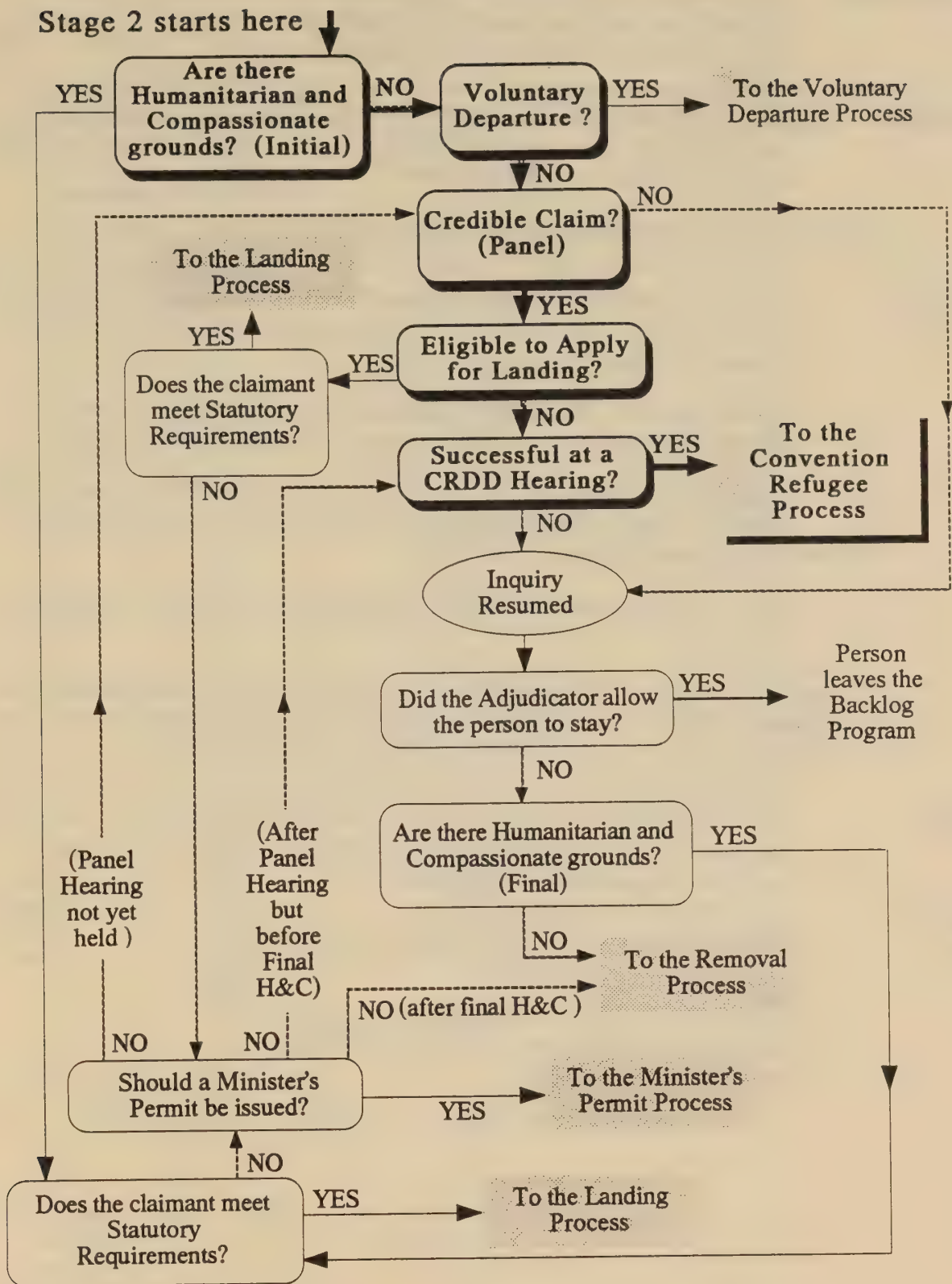


Scenario # 10: Convention Refugee

Introduction	This scenario shows how a person with a credible claim may be successful in having himself declared a convention refugee.
Situation	<p>Mr. J. arrived in Canada in January 1988 and made a refugee claim at once. His inquiry has been adjourned. He has not been examined under oath.</p> <p>It was determined in Stage 1 that he is a Group 3 claimant.</p>
Decision Flow	<p>Mr. J.'s case was initially reviewed in the local CIC to determine if there were Humanitarian and Compassionate grounds. No H&C grounds were identified.</p> <p>Mr. J. decided that his best chance was to pursue his claim. Therefore he did <u>not</u> voluntarily depart from Canada.</p> <p>The Panel Hearing decided that he did have a credible claim.</p> <p>However, Mr. J. was not eligible to apply for landing because he had left Canada for 2 weeks in January 1990.</p> <p>Mr. J. was then scheduled to appear before a Convention Refugee Determination Division hearing. At this hearing it was determined that Mr. J. was a Convention Refugee.</p>
Result	Mr. J.'s case goes to the Convention Refugee Process part of Stage 3.
Related Pages	<p>Initial H&C review, pp. 55-81</p> <p>Voluntary departure, pp. 88-98, pp 258-269</p> <p>Panel hearing, pp. 102-114</p> <p>Eligibility, pp. 118-131</p> <p>CRDD hearing, pp. 158-169</p> <p>Convention Refugee process, p. 243</p>

Scenario #10

GROUP 3



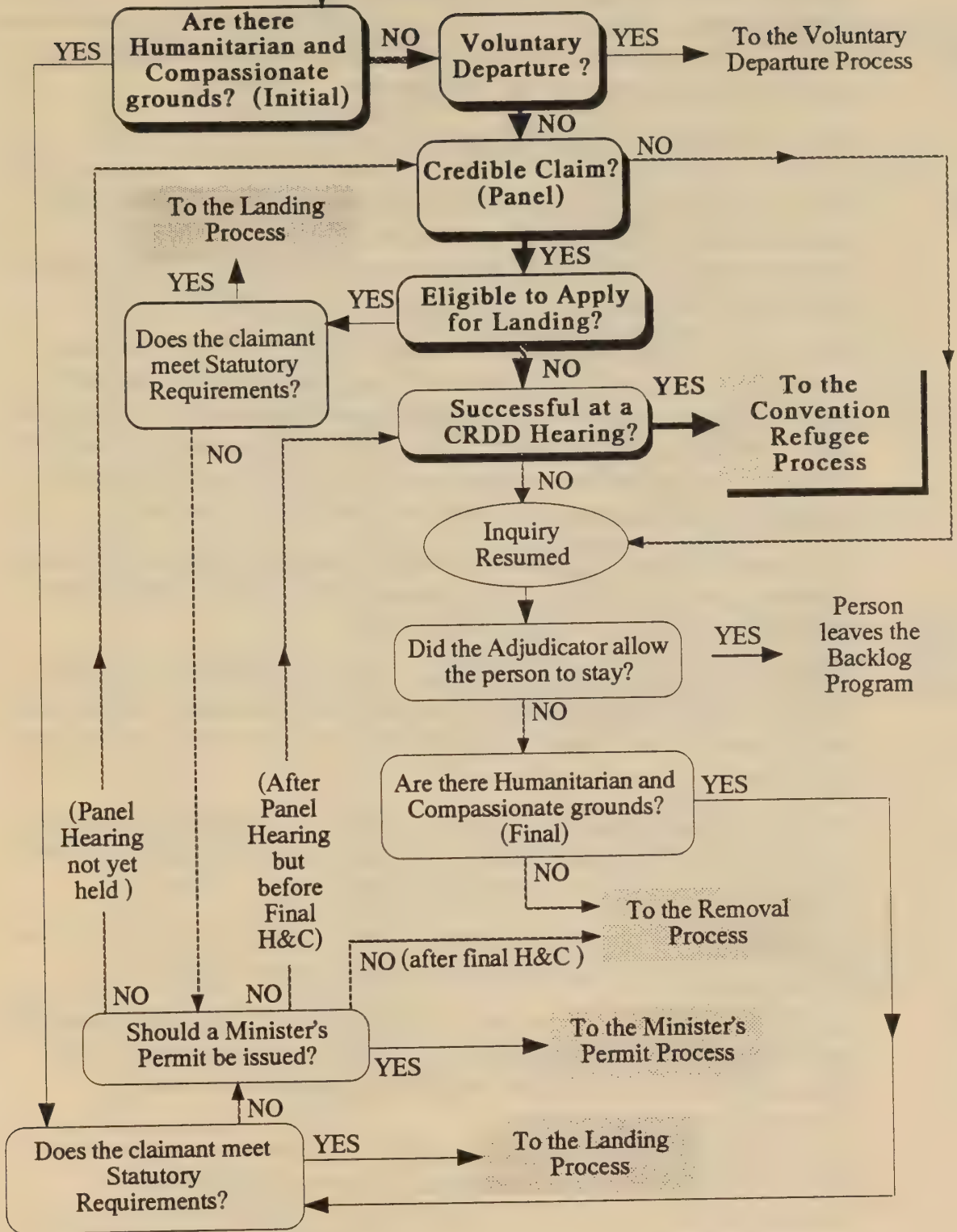
Scenario # 11: Convention Refugee

Introduction	<p>This scenario shows the normal decision path leading to the Convention Refugee process for claimants who are not eligible to apply for landing under RCDC Regulations.</p>
Situation	<p>Ms. K. arrived in Canada in February 1988 and made a refugee claim at once. Her inquiry has been adjourned. She has not been examined under oath.</p> <p>It was determined in Stage 1 that she is a Group 3 claimant.</p>
Decision Table	<p>Ms. K.'s case was initially reviewed in the local CIC to determine if there were Humanitarian and Compassionate grounds. No H&C grounds were identified.</p> <p>Ms. K. decided that her best chance was to pursue her claim. Therefore she did not voluntarily depart from Canada.</p> <p>The Panel Hearing decided that she had a credible claim. She was not eligible to apply for landing because she had a serious criminal conviction. 19 (1) (c)</p> <p>Ms. K. went to the CRDD hearing and was declared a Convention Refugee.</p> <p>Ms. K. applied for landing. As a result of the investigations and assessments conducted in response to her application, she was found to meet the statutory requirements for landing.</p>
Result	<p>Ms. K. attempts to be landed as a Convention Refugee. The Minister decides that she is a danger to the public and has her removed.</p>
Related Pages	<p>Initial H&C review, pp. 55-81 Voluntary departure, pp. 88-98, pp 258-269 Panel hearing, pp. 102-114 CRDD hearing, pp. 158-169 Assessing statutory requirements, pp. 135-154 Removal, pp. 273-283</p>

Scenario #11

GROUP 3

Stage 2 starts here ↓



Scenario # 12: Removal

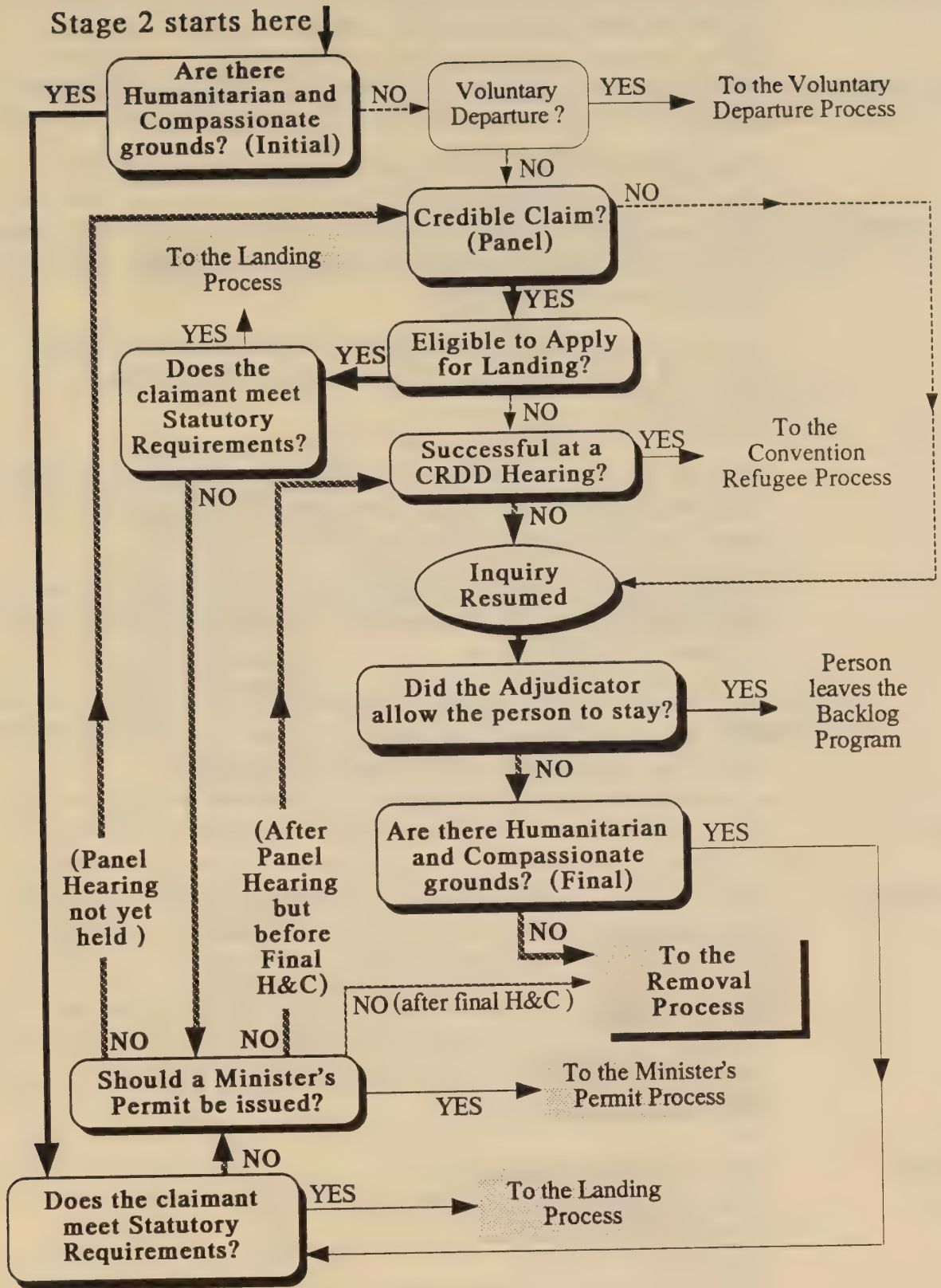
Introduction	This scenario shows how changes in the situation in some countries over the period the claimant has been in Canada can result in different decisions during the review processes.	
Situation	<p>Mr. L. arrived in Canada in March 1988 and made a refugee claim at once. His inquiry has been adjourned.</p> <p>It was determined in Stage 1 that he is a Group 3 claimant.</p>	
Decision Flow	<p>Mr. L.'s case was reviewed at the local CIC to determine if there were Humanitarian and Compassionate grounds. During an interview, exceptional circumstances were found and it was decided that these were sufficient H&C grounds to apply for landing.</p> <p>Mr. L. applied for landing. As a result of the investigations and assessments conducted in response to his application, it was found that in the period since he had arrived and been given permission to work, he had not found work of any kind. In this period he applied for and received welfare. There is no indication that he is likely to succeed in finding work and remove himself from welfare.</p> <p>As a result of the his apparent inability to support himself, he failed to meet the statutory requirements for landing. The officer reported this new grounds for an inquiry.</p> <p>The Panel Hearing decided the claim was credible and the CIC decided that he was eligible to apply for landing. However, he had already failed to meet Statutory Requirements and a permit was not issued.</p> <p>Mr. L. was then scheduled to appear before a Convention Refugee Determination Division hearing. At this hearing it was determined that Mr. L. was not a Convention Refugee.</p> <p>Mr. L.'s inquiry was then resumed. The adjudicator did not allow Mr. L. to stay in Canada and issued a removal order.</p> <p>Mr. L. then had a final review for Humanitarian and Compassionate grounds. It was found that due to a change of government in his home country there were no longer Humanitarian and Compassionate grounds.</p>	
Result	Mr. L.'s case goes to the Removal Process part of Stage 3.	

Related Pages

Initial H&C review, pp. 55-81
Assessing statutory requirements, pp. 135-154
Panel hearing, pp. 102-114
Final H&C review, pp. 185-194

Eligibility, pp. 118-131
CRDD hearing, pp. 158-169
Inquiry, pp. 173-181
Removal, pp. 273-285

GROUP 3

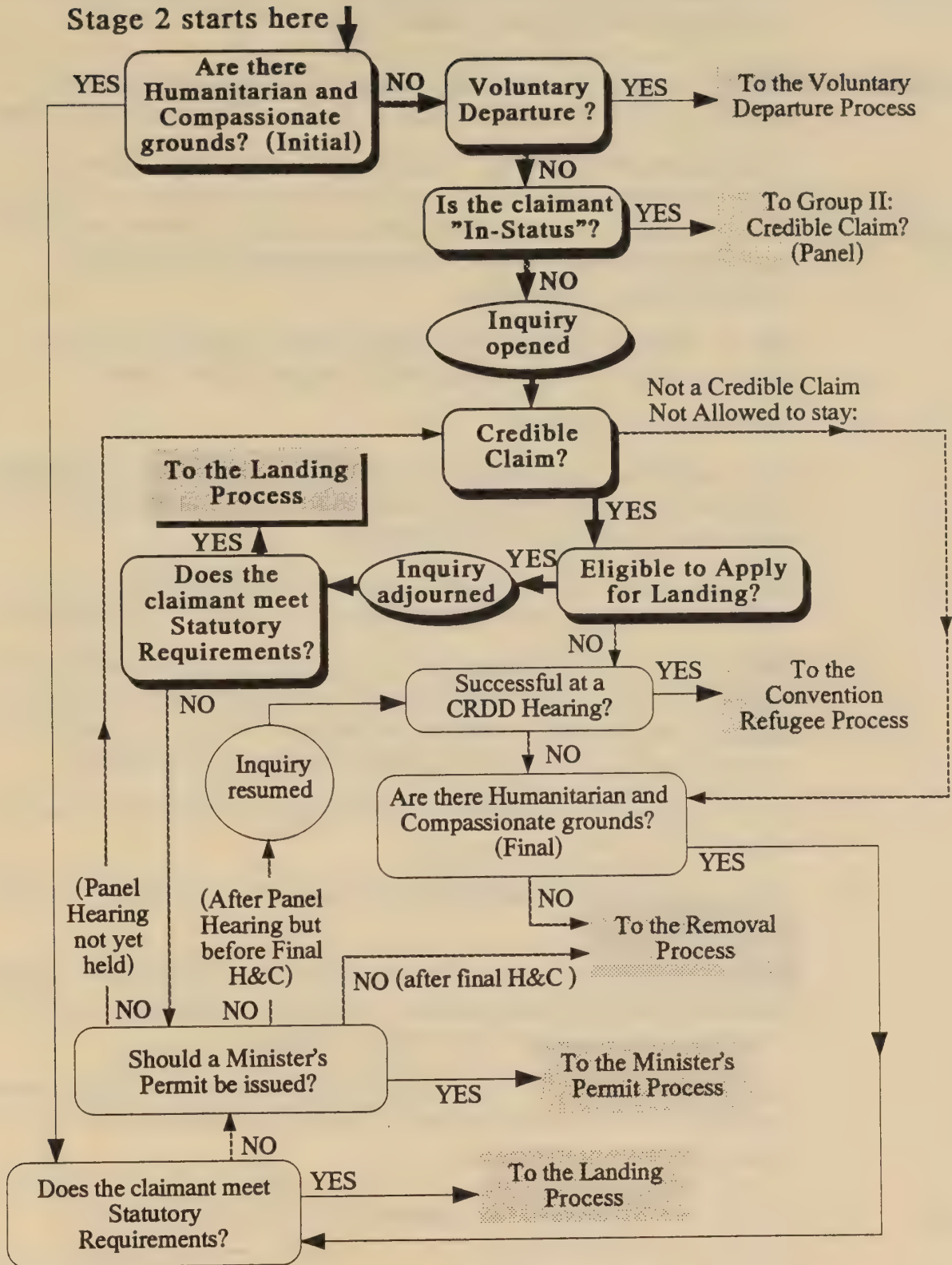


Scenario # 13: Landing

Introduction	This scenario shows how for persons in Group 4 an inquiry must be opened in order to establish the credibility of the claim.
Situation	<p>Mr. M. arrived in Canada in November 1988 and indicated his intention to claim refugee status. A Section 20 report was written.</p> <p>It was determined in Stage 1 that he is a Group 4 claimant.</p>
Decision Flow	<p>Mr. M.'s case was initially reviewed in the local CIC to determine if there were Humanitarian and Compassionate grounds. No H&C grounds were identified.</p> <p>Mr. M. decided that his best chance was to pursue his claim. Therefore he did not voluntarily depart from Canada.</p> <p>He is not "In-Status".</p> <p>At the inquiry it was decided that he had a credible claim and the CPO, based on the available information, determined that Mr. M. was eligible to apply for landing.</p> <p>The CPO met with Mr. M.'s counsel and together they asked the adjudicator for an adjournment. The adjudicator agreed and adjourned the inquiry.</p> <p>Mr. M. applied for landing. As a result of the investigations and assessments conducted in response to his application, he was found to meet the statutory requirements for landing.</p>
Result	Mr. M.'s case goes to the Landing Process part of Stage 3.
Comment	<p>While under no legal obligation to grant the adjournment, the adjudicator, in his discretion, granted the joint request from the claimant's counsel and the CPO.</p> <p>If the inquiry was based on section 19(2)(d) for 9(1) or on section 19(2)(d) for 14(1), the adjudicator could have allowed the person to come into Canada for further examination by an immigration officer and concluded the inquiry.</p>
Related Pages	<p>Initial H&C review, pp. 55-81</p> <p>Voluntary departure, pp. 88-98, pp. 258-269</p> <p>Eligibility, pp. 118-131</p> <p>Inquiry, pp. 173-181</p> <p>Assessing statutory requirements, pp. 135-154</p> <p>Landing, pp. 235-254</p>

Scenario # 13

GROUP 4



Scenario # 14: Removal

Introduction	This scenario shows how an adjourned inquiry must be resumed if the claimant fails to meet statutory requirements.	
Situation	Mrs. N. arrived in Canada in October 1988 and indicated her intention to claim refugee status. A Section 20 report was written. It was determined in Stage 1 that she is a Group 4 claimant.	
Decision Flow	<p>Mrs. N.'s case was reviewed in the local CIC to determine if there were Humanitarian and Compassionate grounds. No H&C grounds were identified.</p> <p>Mrs. N. decided that her best chance was to pursue her claim. Therefore she did <u>not</u> voluntarily depart from Canada</p> <p>She is not "In-Status".</p> <p>At an inquiry, it was decided that she had a credible claim and the CPO, based on the available information, determined that Mrs. N. was eligible to apply for landing.</p> <p>The CPO met with Mrs. N.'s counsel and together they asked the adjudicator for an adjournment. An adjournment was granted.</p> <p>Mrs. N. applied for landing. As a result of the investigations and assessments conducted in response to her application, she was found to have a serious and incurable medical problem. As a result, she did not meet the statutory requirements for landing.</p> <p>A new report was written and a Minister's Permit was not issued.</p> <p>The inquiry was resumed and the adjudicator issued a conditional removal order.</p> <p>Mrs. N. was then scheduled to appear before a Convention Refugee Determination Division hearing. At this hearing it was determined that Mrs. N. was not a Convention Refugee.</p> <p>Mrs. N. then had a final review for Humanitarian and Compassionate grounds. It was found that there were no Humanitarian and Compassionate grounds.</p>	
Result	Mrs. N.'s case goes to the Removal Process part of Stage 3.	
Related Pages	Initial H&C review, pp. 55-81 Eligibility, pp. 118-131 Assessing statutory requirements, pp. 135-154 Final H&C review, pp. 185-194	Voluntary departure, pp. 88-98 Inquiry, pp. 173-181 CRDD hearing, pp. 158-169 Removal, pp. 273-285

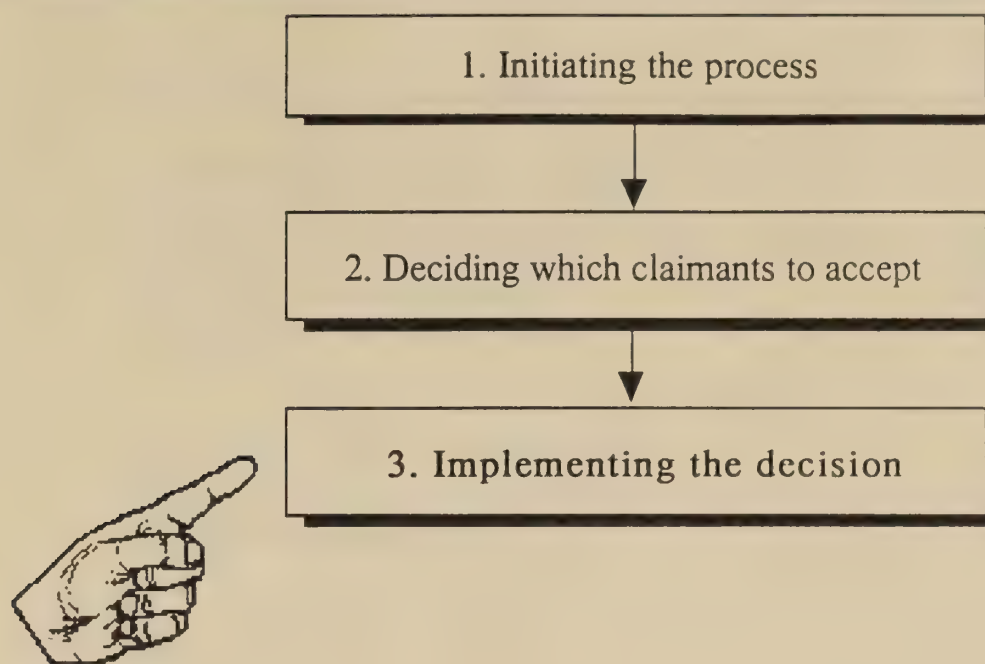
Stage 3--Implementing the decision

Table of Contents

	Page #
Stage 3--Implementing the decision	232
Stage 3--Implementing the decision: Overview	233
How this chapter is organized.....	234

Stage 3--Implementing the decision: Overview

Introduction



At this point in the process one of four decisions has been made and the person

- allow the person to stay on a Minister's Permit
- remove the person from Canada
- depart voluntarily (decision by the claimant)

Procedure Table

This table describes the basic activities involved in implementing the decision made in Stage 2 concerning which claimants to accept.

STEP	DESCRIPTION
1.	Inform the person in writing of the decision.
2.	Complete the procedures for the decision which was taken.
3.	Update the file and computer systems.
4.	Inform other concerned parties of the successful implementation of the decision.
5.	Close the file.

Related Pages

How to land a person, p. 236-238
How to process a person for a Minister's permit, p. 244
How to remove a person from Canada, pp. 273-283
How to complete a voluntary departure, pp. 258-269

How this chapter is organized

Description

This chapter contains several sections:



- **STAYING IN CANADA**, which includes:
 - Landing persons on a credible basis
 - Landing or allowing persons to remain on Humanitarian and Compassionate grounds
 - Landing Convention Refugees



- **LEAVING CANADA**, which includes:
 - Removal
 - Voluntary departure

Each section contains:

- a description of the relevant procedures
- a flowchart, which summarizes the procedures in a visual format.

Related Pages

Stage 3--Implementing the decision

Staying in Canada

Table of Contents

	Page #
Staying in Canada	235
How to land persons whose claim has a credible basis and who meet statutory requirements	236
How to land persons on Humanitarian and Compassionate grounds.....	237
Procedures for landing persons with outstanding removal orders.....	238
How to close the file--All groups	239
Rules affecting dependants abroad of backlog members.....	240
What should be in the file after landing--Credible basis claims.....	241
What should be in the file after landing--H and C grounds.....	242
The Convention refugee process.....	243
Allowing a person to remain under a Minister's permit.....	244
What if the officer has to stop the landing process?.....	245
Spare.....	246
Spare.....	247
Spare.....	248
Flowchart--Landing persons with a Credible basis (Groups 1,2,3).....	249
Flowchart--Landing persons with positive initial H & C review	250
Flowchart--Landing persons with positive final H & C review.....	251
J1: CIC Letter to USINS.....	252
J2: Letter to Canada Immigration Officer at Port of Entry	253
J3: Separation of Family Statement.....	254
J4: Spare.....	255
J5: Spare.....	256
J6: Spare.....	257

How to land persons whose claim has a credible basis and who meet statutory requirements

Introduction

This process applies to persons:

- whose claims have been found to have a credible basis AND
- who are eligible to apply under the RCDC Regulations AND
- who meet statutory requirements

Summary Table

This table outlines what the officer must do to land a person who has a credible claim.

STEP	DESCRIPTION
1.	Make sure no adverse information has been received since the time that the person met statutory requirements.
2.	Prepare IMM 1000.
3.	Send a call-in notice to the applicant.
4.	At the interview: <ul style="list-style-type: none">• if there is no receipt already on file, collect the cost recovery fee and issue a receipt.• if there is a receipt on file, this means the person has already paid the processing fee. Give the receipt to the person.• review the IMM 8 and witness the person's signature.• double-check the IMM 8 and supporting documents to make sure the person still meets statutory requirements.• assess 19(1)(b)• for Group 2, collect the person's Minister's permit• complete IMM 1000 and land the applicant.
5.	Before the person leaves your office, check the file to make sure you have all the information needed to close it.

Facts

No Record of Assessment (IMM 1104) is required for landing.

All members of the Refugee Claimants Designated Class are exempt from:

- A9(1)
- R4 to R11 inclusive
- R14(1)

Rules

If, at any time, the officer finds out that the person does **not** meet statutory requirements, or is **not** eligible to apply for landing under the RCDC Regulations, the officer must stop the landing process.

Related Pages

Fees, p. 30

How to process dependants, pp. 286-291

How to land persons on Humanitarian and Compassionate grounds

- Introduction** This process applies to persons in all groups who:
- have received positive decisions at their H and C review
 - meet statutory requirements

Summary Table

This table outlines what the officer does when landing persons on H and C grounds.

STEP	DESCRIPTION
1.	Make sure no adverse information has been received since the time that the person met statutory requirements.
2.	<ul style="list-style-type: none">• Prepare IMM 1000.• If there is an outstanding removal order or departure notice, obtain Minister's Consent as per A55.
3.	Send a call-in notice to the applicant.
4.	At the interview: <ul style="list-style-type: none">• if there is no receipt already on file, collect the cost recovery fee and issue a receipt.• if there is a receipt on file, this means the person has already paid the processing fee. Give the receipt to the person.• assess 19(1)(b)• review the IMM 8 and witness the person's signature.• double-check the IMM 8 and supporting documents to make sure the person still meets statutory requirements.• for Group 2, collect the person's Minister's permit.
5.	<ul style="list-style-type: none">• If the person has no outstanding removal order or departure notice, complete the IMM 1000 and land the person.• If the person has an outstanding removal order or departure notice, follow the procedures outlined in this manual.
5.	Before the person leaves your office, check the file to make sure you have all the information needed to close it.

- Fact** Persons processed for landing on humanitarian and compassionate grounds are **not** exempt from:
- A9(1)
 - R4 to R11 inclusive
 - R14(1)

Related Pages

How to close the file: All groups, p. 239
Landing persons with outstanding removal orders, p. 238

Procedures for landing persons with outstanding removal orders

Fact



- Persons who have been accepted for landing and who have outstanding departure notices or removal orders must physically leave Canada before completing the landing process. They then immediately return to the Canadian port of entry to complete the landing. In this way, the legal requirement to execute the removal order or departure notice is met.
- Special arrangements with the United States Immigration and Naturalization Services allow these persons to temporarily enter the United States for this purpose.

Procedure Table

This table describes the process used to continue the landing of persons who have outstanding departure or removal notices.

STEP	DESCRIPTION
1.	Partially complete the IMM 1000 including items 18 and 41-44 inclusive of ID 3.12.
2.	Arrange for the person to depart from Canada with the following documents: <ul style="list-style-type: none">• the partially completed IMM 1000• letter of introduction to the United States Immigration and Naturalization Services (App. J1)• letter of introduction to the Canadian port of entry (Appendix J2)
3.	Counsel the person to arrange his/her trip so that the application for admission to the U.S.A. takes place during normal business hours Monday to Friday, 8:00 to 16:00.
4.	Tell the person that the documents will allow him/her to enter the United States only for the purpose of returning immediately to the Canadian port of entry to complete the landing. If the person wishes to enter the United States for other reasons, such as a tourist visit, he or she must meet all U.S.A immigration requirements.

Related Pages

Procedures for landing persons on H and C grounds: All groups, p. 237
What should be in the file: H and C grounds, p. 242
How to close the file: All groups, p. 239
Dependants, pp.

How to close the file--All groups

Description After the landing is completed:

- update COSS
- for anyone who had a Minister's permit, place the Minister's permit on file
- record on file the receipt number for the processing fee
- retain on file the employment form or IMM 1102
- enter on FOSS the IMM 1000 data
- notify Enforcement and Adjudication, as required
- return all legitimate passports to the person or other family members

Make sure:

- all forms are coded B89
- a Separation of Family Statement has been signed

Make sure the Medical Surveillance Undertaking, Form IMM 535, is signed, if it is needed for the person or for any family member.

Summary Table

This table lists the situations in which Enforcement or Adjudication must be notified.

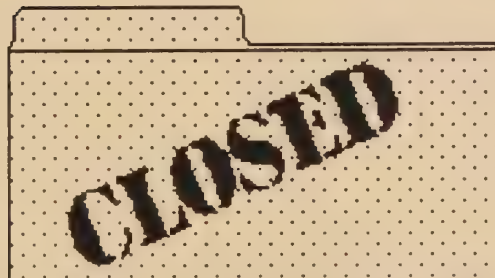
SITUATION	NOTIFY...
• Groups 1 and 3	• Enforcement AND • Adjudication
Landed on a credible basis: <ul style="list-style-type: none">• Group 2• Group 4	
Landed on H and C grounds: <ul style="list-style-type: none">• Group 2• Group 4	• Enforcement only

Rule

False or altered passports must **not** be returned to the backlog member. Follow the procedures in I.E. 14.19 and I.S. 22.21.

Related Pages

Related	I.E. 14.19
Material	I.S. 22.21



Rules affecting dependants abroad of backlog members

Rules

- Claimants in the backlog must be landed, **before** their dependants abroad can be processed towards landing.
 - Sometimes the processing of dependants abroad can begin before the claimant is landed; this is done **only** when:
 - extenuating circumstances warrant telexing the visa officer abroad to begin processing the dependants
- OR when
- there will be a considerable delay in processing the landing of the claimant in Canada.

Preview

The last section of this manual describes procedures for processing dependants of backlog members.

Related Pages

How to process dependants, pp. 286-291

What should be in the file after landing--Credible basis claims

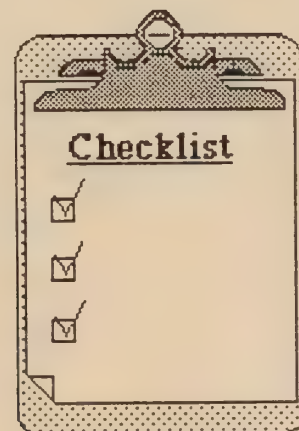
Summary Table

This table describes the correct final location for various documents related to Credible cases. Most of the items are common to Credible cases and H and C cases. The items specific to Credible cases are listed in **bold type**.

The information applies to all groups

IN THE FILE...	RETURNED TO THE PERSON...
<ul style="list-style-type: none">• copy of approval letter - credible basis<ul style="list-style-type: none">• for RBRU cases - Appendix E1• for panel hearing cases - Appendix E2• completed IMM 8 form• medical examination results• security report• criminal report• Minister's permit, if the person had one• employment form or IMM 1102• receipt number for the processing fee• if required:<ul style="list-style-type: none">• Separation of Family Statement• Medical Surveillance Undertaking, Form IMM 535• IMM 1344	<ul style="list-style-type: none">• processing fee receipt• legitimate passports

Related Pages



What should be in the file after landing--H and C grounds

Summary Table

This table describes the correct final location for various documents related to H and C cases. Most of the items are common to H and C cases and Credible cases. The items specific to H and C cases are listed in **bold type**.

The information applies to all groups, except as noted.

IN THE FILE...	RETURNED TO THE PERSON...
<ul style="list-style-type: none">• copy of approval letter - H and C case (Appendix F5)• Copy of IMM 655, if it was an initial H and C case• Minister's permit, if the person had one• completed IMM 8 Form• employment form or IMM 1102• medical examination results• security report• criminal report• copy of IMM 1104 (if required)• copy of IMM 1344 (if required)• receipt number for the processing fee• if required:<ul style="list-style-type: none">• Separation of Family Statement (Appendix J3)• Medical Surveillance Undertaking, Form IMM 535• if it was final H and C case, Minister's Consent form	<ul style="list-style-type: none">• processing fee receipt• legitimate passports

Related Pages



The Convention refugee process

Introduction This page applies to people who have been found to be Convention Refugees by a full CRDD hearing.

Rules

- The person must be eligible to apply for landing.
- To protect Canadian society, the security and health requirements must be met.
- If the Minister is of the opinion that a refugee poses a danger to the public, or to the security of Canada, the existing removal order will be carried out.

Summary Table This table summarizes the procedures which apply to landing Convention Refugees, and lists the relevant portions of the legislation.

IF the refugees were in...	THEN process them under...	AND refer to...
Groups 1 or 3	the provisions for landing Convention refugees	<ul style="list-style-type: none">• TP 43• IE 12.17• IE 12.21
Groups 2 or 4	the new legislation for landing Convention refugees	<ul style="list-style-type: none">• IE 12.17• IE 12.21• algorithm 6

Related Pages

Allowing a person to remain under a Minister's permit

Introduction	<p>The Minister has the authority to issue permits in special or unusual situations. This authority is discretionary. It has been delegated to various representatives of the Minister according to specific guidelines.</p> <p>If circumstances warrant, Minister's permits can be issued at various stages in the backlog clearance process.</p>	
Comment	<p>All people in Group 2 have Minister's permits which may have expired. If so, the Minister's permit must be extended.</p>	
Rules	<ul style="list-style-type: none">• A Minister's permit <u>cannot</u> be issued after a removal order or a departure notice has been issued.• Sometimes, on the basis of the interview, the officer decides to recommend that the person be allowed to remain under a Minister's permit.	
Process	<p>The officer</p> <ul style="list-style-type: none">• knows that the claimant has failed statutory requirements• calls the claimant for an interview to explain the next step in the process.• writes a report if the failure to meet statutory requirements results in a new allegation. <p>The officer who reviews the report may decide to issue a permit.</p>	
Related Pages	Legal Reference	Delegation of Authority I 1 and I 27

What if the officer has to stop the landing process?

Description

Sometimes officers have to stop the landing process because they discover certain obstacles. For example, the person may become:

- ineligible to apply for landing under the RCDC Regulations
- unable to meet statutory requirements

When this happens, the case reverts to Stage 2--Deciding which claimants to accept.

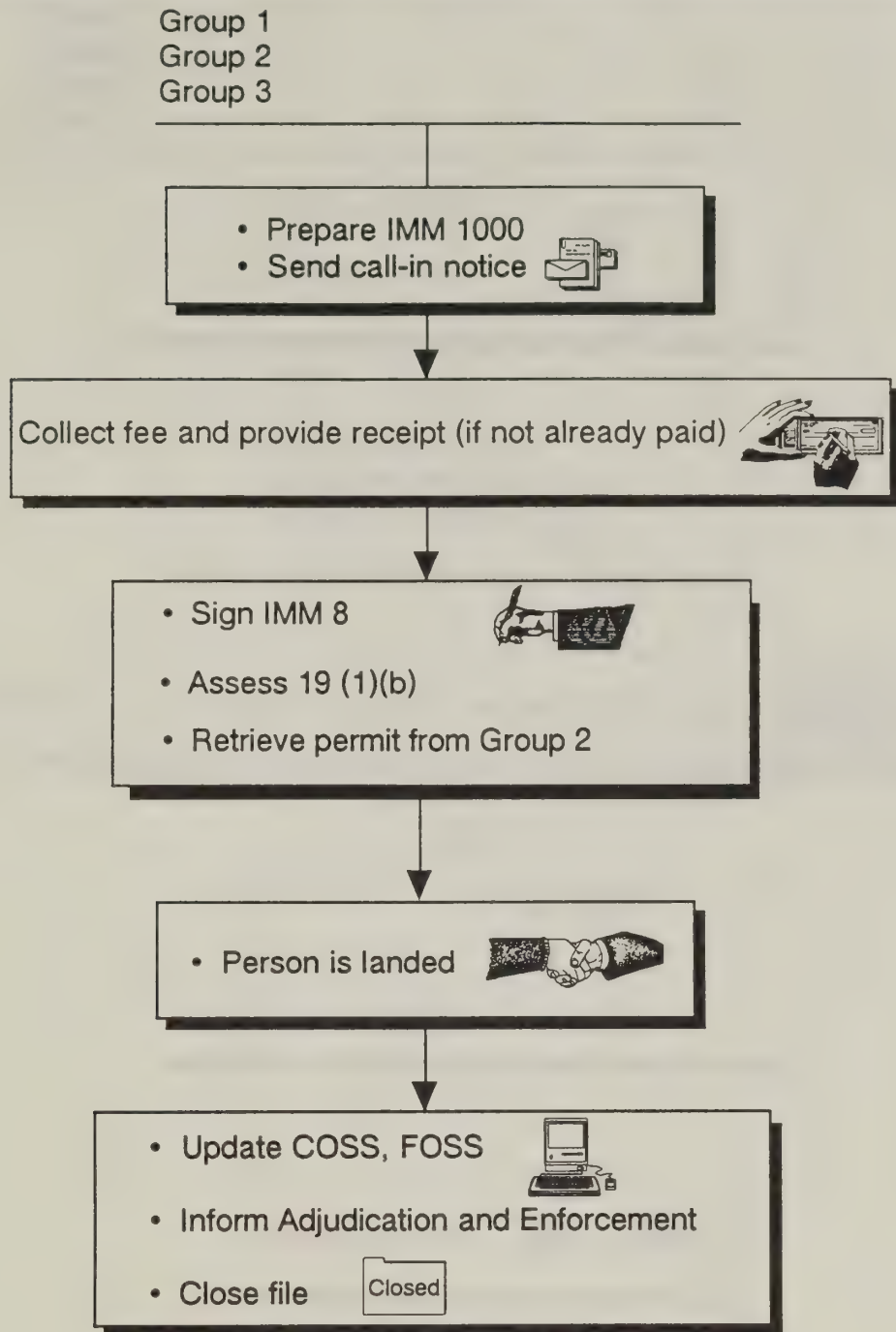
Refer to the appropriate summary diagram to determine the next step in Stage 2 for the particular case you are handling.

Related Pages

Summary diagrams:

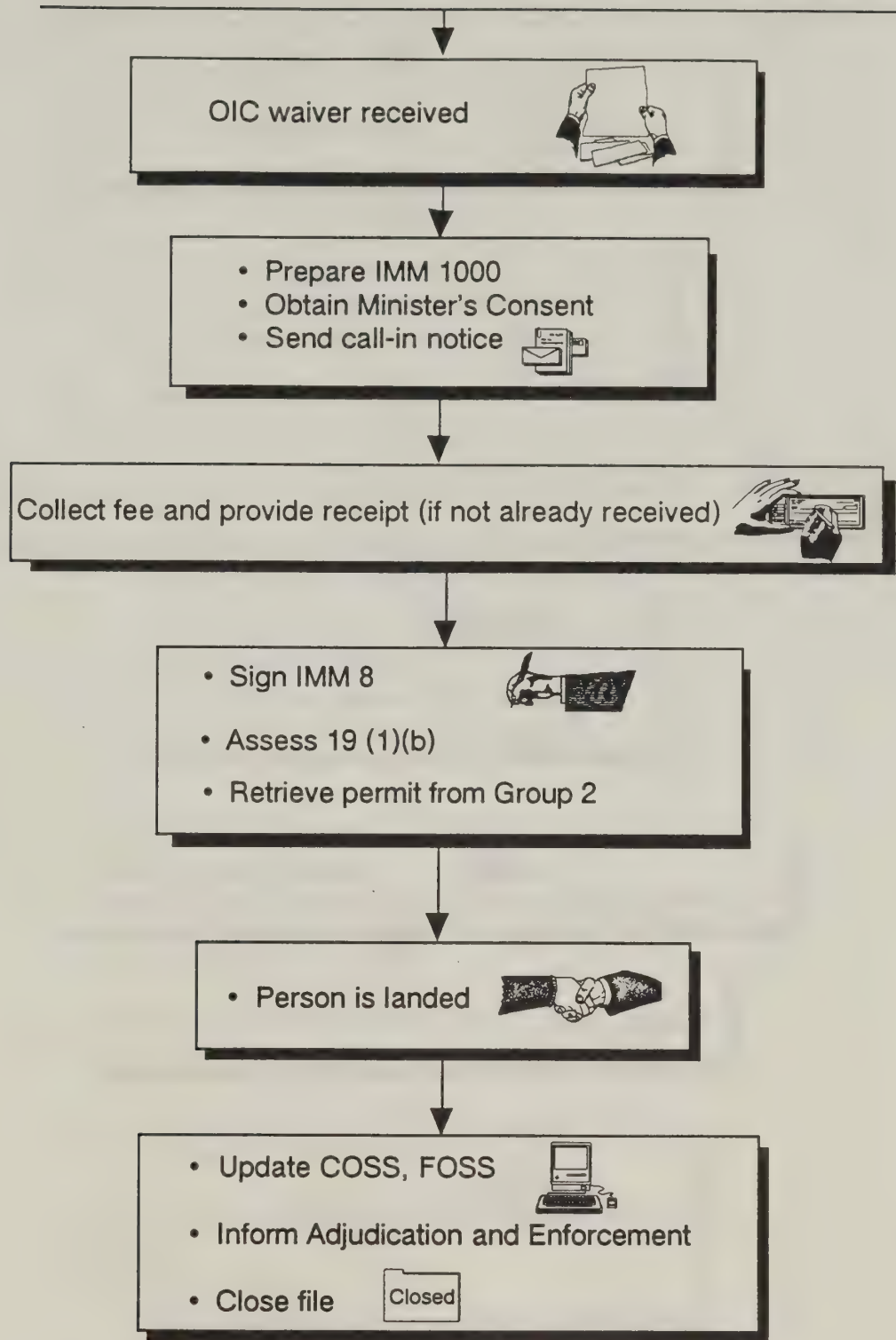
- Group 1 found Credible by the RBRU, p. 19
- Group 1 screened Non-credible by RBRU, p. 21
- Group 2, p. 23
- Group 3, p. 25
- Group 4, p. 27

Flowchart--Landing persons with a Credible basis (Groups 1,2,3)



Flowchart--Landing persons with positive initial H & C review

Group 1
Group 2
Group 3
Group 4



First block of handwritten text, appearing as a paragraph or a list item.

Second block of handwritten text, possibly a sub-section or a continuation.

Third block of handwritten text, continuing the narrative or list.

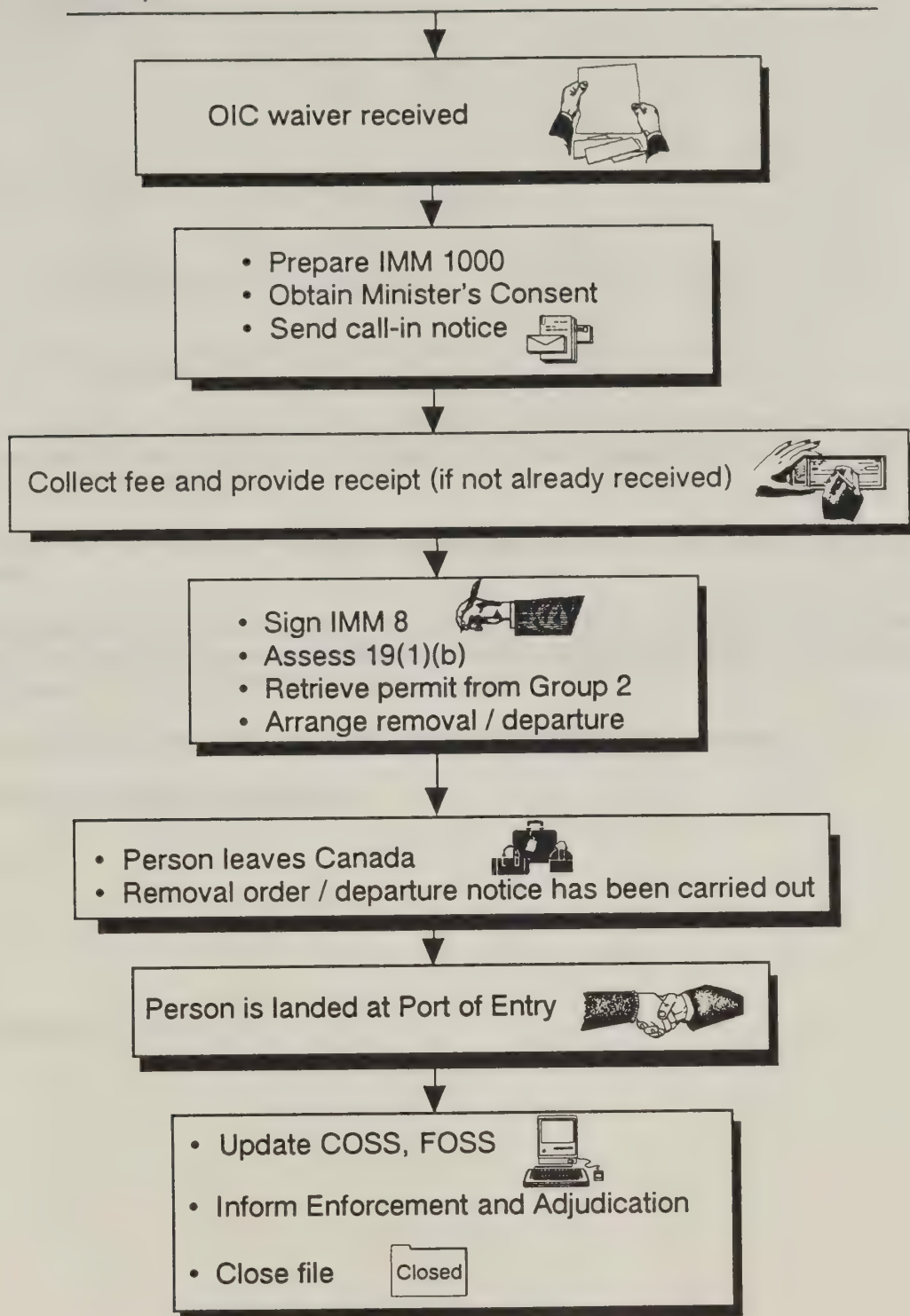
Fourth block of handwritten text, possibly a separate entry or note.

Fifth block of handwritten text, continuing the sequence.

Sixth block of handwritten text, possibly the final entry on the page.

Flowchart--Landing persons with positive final H & C review

Group 1
Group 2
Group 3
Group 4



J1: CIC Letter to USINS

CIC FILE NO. _____

Port Director
United States Immigration and
Naturalization Service

Dear Sir:

Reference _____

Name

Date of Birth

Citizenship

The above-named person has been accepted for landing in Canada as a permanent resident under the Backlog Clearance Program. His/her landing cannot take place, however, until the removal order made against him/her has been executed.

In view of this, I ask that you parole him/her into the United States in order to allow him/her to effect the removal order.

Immediately after having been paroled into the United States, he/she will return to the adjacent Canadian port of entry where landing formalities will be completed. In the event of unforeseen circumstances, this letter will guarantee the rightful holder's return to Canada.

The above named person will/will not be in possession of a valid travel document.

Your assistance in this matter is appreciated

Yours sincerely,

Manager
Canada Immigration Centre

J2: Letter to Canada Immigration Officer at Port of Entry

CIC FILE NO. _____

To: Canada Immigration Officer
Port of Entry

Reference: _____
Name _____
Date of Birth _____
Citizenship _____

The bearer of this letter has been accepted for permanent residence in Canada under the terms of the Backlog Clearance Program and has been granted A55 consent to come into Canada.

Once you are satisfied as to the bearer's identity and the absence of any statutory impediments to his/her application for admission to Canada, please proceed to landing.

Yours sincerely,

Manager
Canada Immigration Centre

J3: Separation of Family Statement

Your application for permanent residence in Canada has been accepted under the Refugee Claimants Designated Class Regulations.

Your application for landing from within Canada could result in a permanent separation from your family members who remain outside of Canada unless each member of your family is able to establish, to the satisfaction of a visa officer, that he/she does not come within any inadmissible class and otherwise meets the requirements of the Immigration Act and the Immigration Regulations, 1978.

Should you submit a sponsorship application for your family which is refused you would retain any appeal rights to the Immigration and Refugee Board.

Declaration of Applicant

The above information has been fully explained to me and I hereby acknowledge my full understanding of the consequences of my acceptance of landing in Canada.

Dated at _____ this _____ day of _____, 19 .

Signature of Applicant

Declaration of Interpreter

I _____, of _____, declare that
I have faithfully and truly interpreted the above information to _____ in his/her own
language namely _____, and that he/she has informed me that he/she
completely understands the nature and effect of the outcome of his/her application for landing within
Canada.

Dated at _____ this _____ day of _____, 19 .

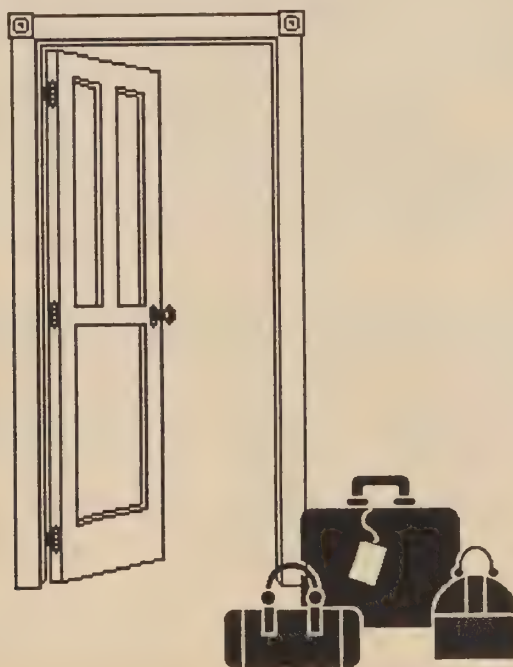
Signature of Interpreter

Stage 3: Implementing the decision

Voluntary Departure

Table of Contents

	Page #
Voluntary Departure.....	258
Voluntary departure: Initial procedures.....	259
Voluntary departure: What happens at the Port of Entry?	260
Voluntary departure: CIC follow-up	261
What the file should contain after a person has departed voluntarily	262
Spare	263
Spare	264
Spare	265
Flowchart--Voluntary departure.....	266
K1: Introduction to Visa Office.....	267
K2: Voluntary Departure Checklist	268
K3: Verification of Departure Letter.....	269
K4: Spare	270
K5: Spare	271
K6: Spare	272



Voluntary departure: Initial procedures

Introduction

If persons in the backlog choose to leave Canada voluntarily before a panel hearing is opened, they receive a letter of introduction which guarantees them an interview with a visa officer abroad.

Procedure Table

This table describes the initial procedures for voluntary departure.



STEP	DESCRIPTION
1.	Ask the person to bring in a confirmed airline ticket.
2.	Prepare a Letter of Introduction to Visa Office (App. K1) <ul style="list-style-type: none">• list names of any non-Canadian dependants• print the letter on the generic FOSS form if the office has FOSS Full Document Entry (FDE)
3.	<ul style="list-style-type: none">• When the person shows you the confirmed airline ticket, give him or her the Verification of Departure letter and the letter of introduction. (Appendices K3 and K1)• Tell the person that the letter of introduction:<ul style="list-style-type: none">• guarantees an interview with a visa officer• must be stamped by a Canada Immigration Officer at the port of departure from Canada• will be retrieved at the port of departure unless all dependants depart with the person• must be mailed to the visa office within 6 months to get the Application for Permanent Residence in Canada forms(IMM 8), information kit and interview.
4.	<ul style="list-style-type: none">• Give a voluntary departure checklist to the person. (K2)• Explain that it can be used to gather documentation which helps demonstrate establishment in Canada.
5.	<ul style="list-style-type: none">• Tell persons leaving by air that they must get a boarding pass and report to the airport CIC well before departure.• If not already done, initiate background checks and take fingerprints.
6.	Collect the person's employment form and SIN card.
7.	Send a list of names, birthdates, departure dates, flight numbers and destinations to the Port of Entry.CIC.
8.	"BF" the file for one month. Allow the person a reasonable time to arrange departure; be flexible depending on individual circumstances. For most people, 2-4 weeks should suffice.



Related Pages

How to counsel a person regarding voluntary departure, pp. 88-98

Voluntary departure: What happens at the Port of Entry?

Procedure Table

This table describes what the Port of Entry CIC does when a person departing voluntarily reports at the port of entry.

STEP	DESCRIPTION
1.	Stamp the letter of introduction.
2.	Confirm that: <ul style="list-style-type: none">• the person has the correct boarding passes• all dependants accompany the person. If all dependants do <u>not</u> accompany the person, retrieve the letter of introduction.
3.	Complete the confirmation of departure and return it to the Backlog CIC.
4.	Record the verification of departure on FOSS

Comment

If the person has lost the letter of introduction or has not had time to get one at the CIC , the Port of Entry CIC:

- contacts the CIC holding the person's file and confirms that the letter should be issued
- issues the letter using FOSS FDE

Related Pages

Voluntary departure: Initial procedures, p. 259

Voluntary departure: CIC follow-up, p. 261

K1: Introduction to visa office, p. 267

K3: Verification of Departure letter, p. 269

Voluntary departure: CIC follow-up

Procedure Table

This table outlines the follow-up to be done by the CIC .

STEP	DESCRIPTION
1.	Review the file in one month: <ul style="list-style-type: none">• confirm whether the person has left Canada.• if the person has decided <u>not</u> to leave voluntarily, recommence backlog procedures.
2.	If the person has left, make sure you have: <ul style="list-style-type: none">• a computer report from NHQ or• a signed, stamped Verification of Departure letter from the Port of Entry CIC.
3.	<ul style="list-style-type: none">• Update applicable files including COSS, FOSS, Enforcement and Adjudication.• In offices without COSS, complete the COSS Data Form and forward a copy to the Backlog Clearance, NHQ.
4.	Telex results of background checks to the post abroad.
5.	Close the file.

Related Pages

Voluntary departure pp. 259-260

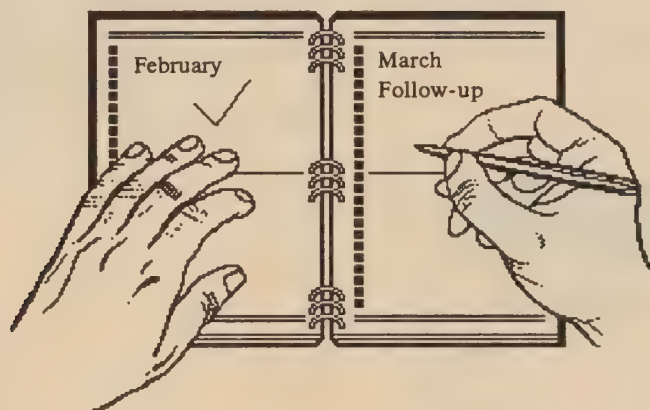
K1: Introduction to visa office, p. 267

K2: Voluntary departure checklist, p. 268

K3: Verification of Departure letter, p. 269

Related Material

Fingerprints



What the file should contain after a person has departed voluntarily

Checklist

Use this checklist to make sure that the file is complete after a person has departed voluntarily.

WHAT TO CHECK	OK
Are all of the following documents in the file?	
• Employment form	
• SIN card	
• for offices without FOSS FDE: <ul style="list-style-type: none">• stamped Verification of Departure letter (App. K3)• notation of receipt of NHQ computer printout confirming departure	
• for offices without COSS: <ul style="list-style-type: none">• COSS Data Form with copy sent to the Backlog Clearance, NHQ	
Have all applicable files been updated?	
• COSS	
• FOSS	
• Enforcement	
• Adjudication	

Related Pages

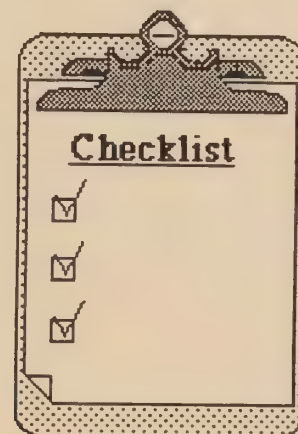
Voluntary departure: Initial procedures, p. 259

Voluntary departure: CIC follow-up, p. 261

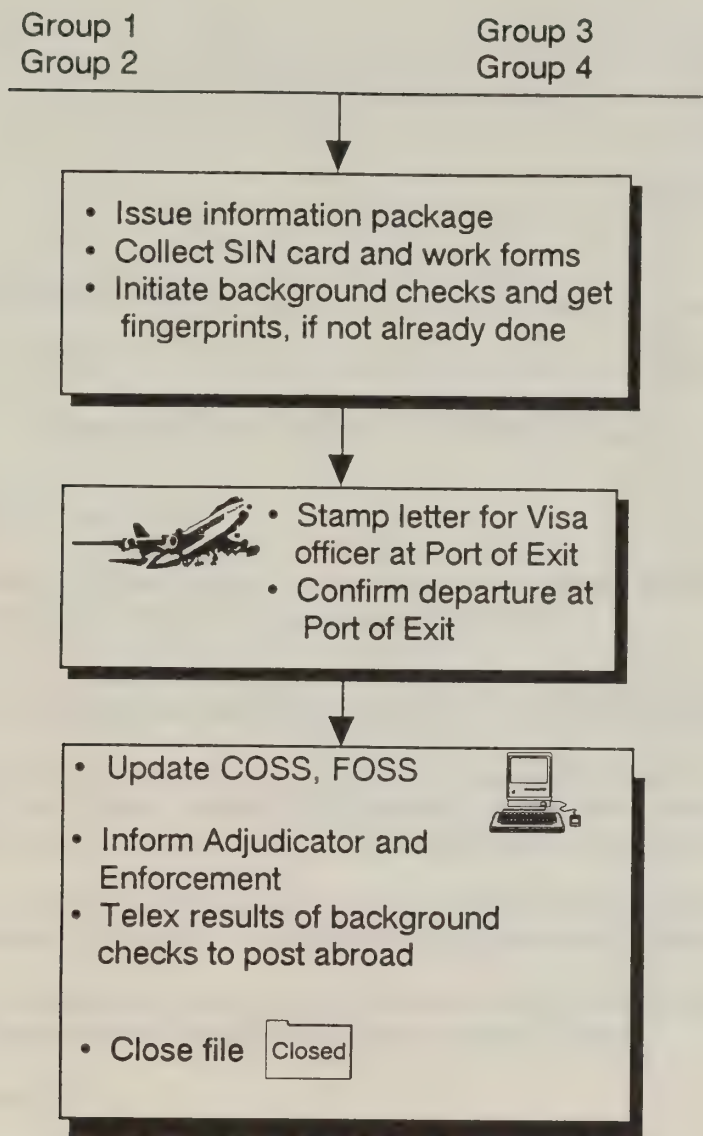
Voluntary departure: What happens at the Port of Entry? p. 260

K1: Introduction to visa office, p. 267

K3: Verification of Departure letter, p. 269



Flowchart--Voluntary departure



K1: Introduction to Visa Office

CIC FILE NO. _____

FOSS ID NO. _____

DATE OF ISSUE _____

Reference: Subject's name: _____

D.O.B. _____

Passport or Travel Document Number _____

ATTENTION: Visa Officer

This is to serve as a letter of introduction of the above-named applicant and to request that you provide this person with an application kit for permanent residence.

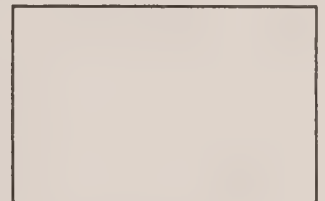
Rather than pursue a refugee claim in Canada this person has taken voluntary departure to submit an application for permanent residence through a visa office in the normal manner.

This person has been advised in Canada, that presentation of this letter will assure him/her of an interview by a visa officer abroad. However, this person has also been counselled that the interview in no way guarantees that an immigrant visa will be issued, nor is it a promise of priority processing.

The above-named person has been assured that his/her Canadian experience will be taken into consideration when assessing this application for permanent residence.

This letter is valid for six months from the date of issue, provided that a Canada Immigration officer at the port of exit has stamped it confirming departure from Canada.

Yours sincerely,



Immigration Officer

Port Stamp

K2: Voluntary Departure Checklist

The following list has been prepared in order to assist persons who wish to submit an application abroad in the proper manner. Upon receipt of the letter of introduction, the visa office will send an information kit outlining the documents which should accompany the Application for Permanent Residence in Canada (IMM 8). The following may be used as a guide to assist persons in demonstrating establishment in Canada:

- a) a Confirmation of Offer of Employment submitted by your prospective employer to the nearest Canada Employment Centre in Canada. The Canada Employment Centre then advises the visa office directly of its decision
- b) letters of reference from employers, bank officials, or other reputable members of the community
- c) evidence of any skills, upgrading or community work
- d) proof of education
- e) if you have a relative in Canada who is either a Canadian citizen or permanent resident, proof of relationship should be obtained
- f) proof of savings such as a bank book.

You and your dependants, if any, will also have to meet normal immigration requirements such as medical, security and criminal clearance and possession of a valid passport.

K3: Verification of Departure Letter

Re: Subject _____

D.O.B. _____

Passport or Travel Document Number _____

ATTENTION: Canada Immigration Officer, Port of Entry

The above-named has indicated a desire to depart from Canada.

If he/she does leave Canada we have requested that he/she present this letter to an Immigration Officer in order to confirm departure.

If his/her departure from Canada is confirmed, kindly return this letter to this office in order that we may update our files.

Your co-operation is greatly appreciated.

Yours sincerely,

The Manager
Canada Immigration Centre

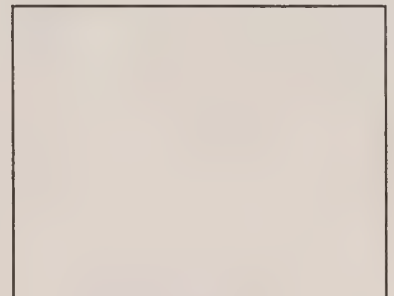
Airline _____

Flight _____

Time of Departure _____

Port of Departure _____

Departure Verified By _____



Port Stamp

Stage 3: Implementing the decision

Removal

Table of Contents

	Page #
Removal	273
Removal procedures	274
Removal for Group 2 with no grounds for a Section 27 report	275
What the file should contain after a person has been removed	276
Spare	277
Spare	278
Spare	279
Flowchart--Removal after negative final H&C - Groups 1, 3, 4	280
Flowchart--Removal after negative final H&C - Group 2	281
L1: Letter - Cancellation of Minister's permit and Direction to leave Canada	282
L2: Pre-removal H&C Negative	283
L3: Spare	284
L4: Spare	285



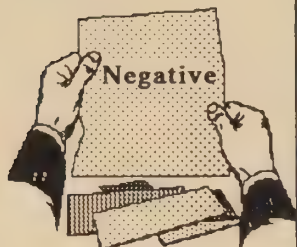
Removal procedures

Introduction

When persons receive a negative decision at the final H & C review:

- the RBRU notifies the CIC officer of the decision
- the CIC begins removal procedures

Procedure Table



This table describes what the CIC officer does to complete removal arrangements.

STEP	DESCRIPTION
1.	Receive the completed Pre-removal Decision Form - Negative (App. I2) from the RBRU which identifies the person and the removal action required.
2.	Send letter (Appendix L2)
3.	Follow standard procedures for removal.
4.	After the person has left Canada, ensure that: <ul style="list-style-type: none">• form IMM 56 is coded B89• information is entered in FOSS• COSS is updated• in offices without COSS, ensure that the COSS Data Form is completed and a copy is forwarded to the Backlog Clearance Task Force, NHQ
5.	Close the file.

Rule

Specific removal procedures must be followed for persons in Group 2 who have:

- permits AND
- no grounds for a Section 27 report AND
- receive a negative decision at the final H & C review

Preview

The next page describes the removal procedures for the specified Group 2 persons.

Related Pages

Removal procedures for Group 2, p. 275

What the file should contain

after a person has been removed, p. 276

Related Material

Immigration Manual, IE 14

Removal for Group 2 with no grounds for a Section 27 report

- Introduction** Persons in Group 2 with **no** grounds for a Section 27 report:
- receive a letter explaining the intention to cancel their permit
 - are considered for a formal Direction to Leave according to A37(C)
 - receive a final H & C review

Procedure Table

This table states how the CIC officer handles Group 2 persons when:

- there are **no** grounds for a section 27 report **AND**
- the person has been advised that the Commission intends to cancel the permit.

STEP	DESCRIPTION
1.	Cancel the permit.
2.	Send the person a Direction to Leave according to A37(5) (App. L1) which: <ul style="list-style-type: none">• states that the permit is cancelled• gives directions for the person to leave Canada
3.	After the person leaves Canada: <ul style="list-style-type: none">• update COSS or, in offices without COSS, complete the COSS Data Form and forward a copy to Backlog Clearance, NHQ• close the file
4.	If the person does <u>not</u> leave by the specified date: <ul style="list-style-type: none">• notify the RBRU. The RBRU sends a copy of the notification and the file to the responsible Bureau Chief, Case Management, NHQ requesting a Ministerial deportation order according to A37(6)• when you receive information that the deportation order was issued, complete removal arrangements and update COSS

Related Pages

Section 27 report, p. 164
Final H&C review, pp. 185-194
Removal procedures, p. 274
What the file should contain after a person has been removed, p. 276

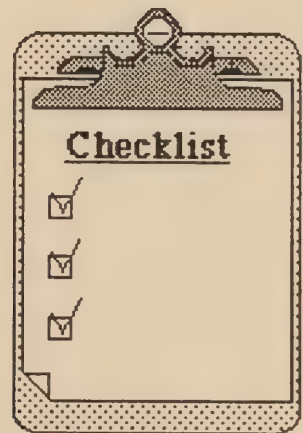
What the file should contain after a person has been removed

Checklist

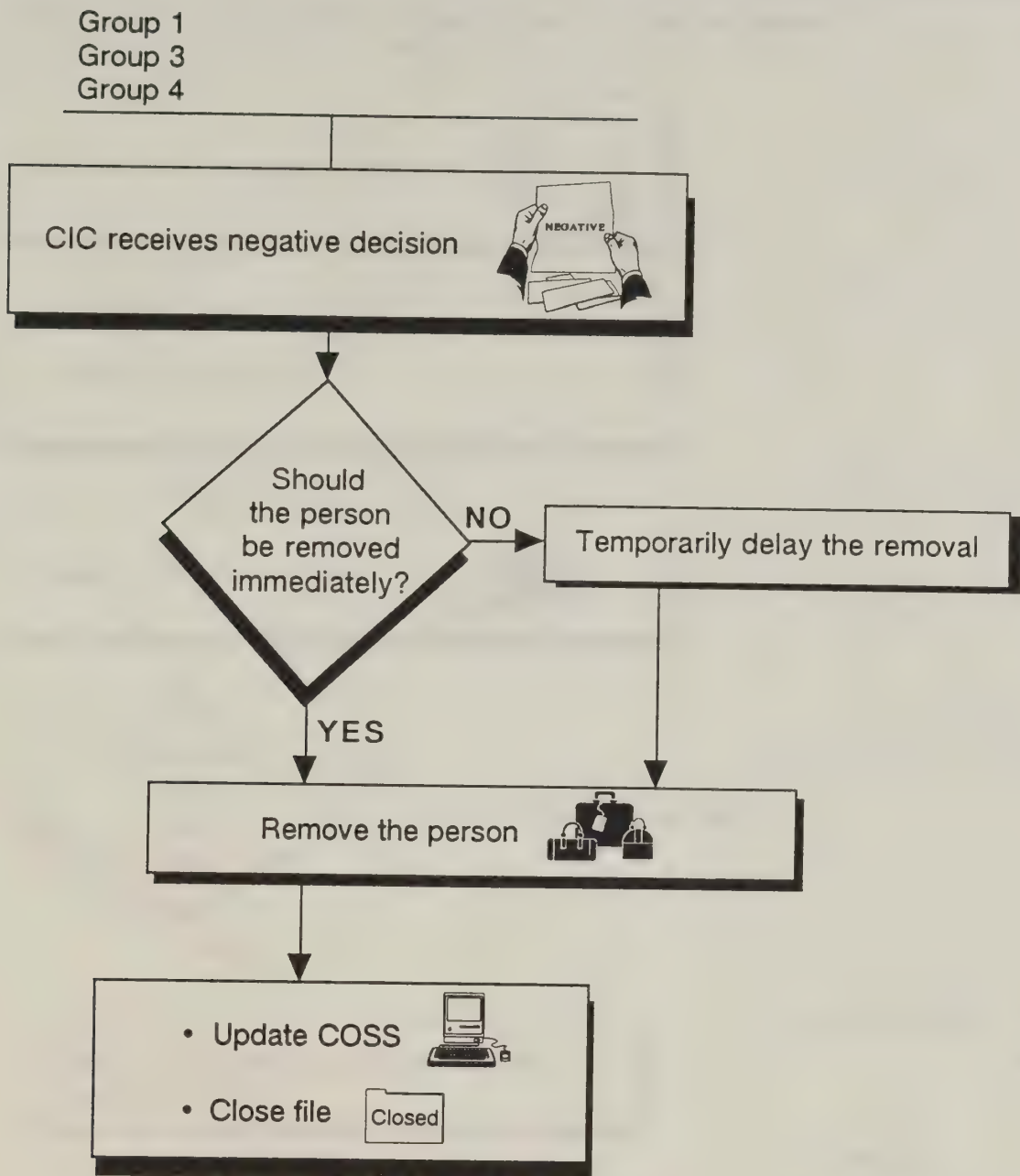
Use this checklist to make sure that the file is complete after a person has left Canada under a removal order.

WHAT TO CHECK	OK
Are all of the following documents in the file? <ul style="list-style-type: none">• Pre-Removal Decision Form - Negative (App. I2)• H&C negative letter (Appendix L2)• IMM 56 form• returned Minister's Permits, if applicable• for offices without COSS:<ul style="list-style-type: none">• COSS Data Form with copy sent to the Backlog Clearance Task Force, NHQ	
Have all applicable files been updated? <ul style="list-style-type: none">• COSS• FOSS	

Related Pages

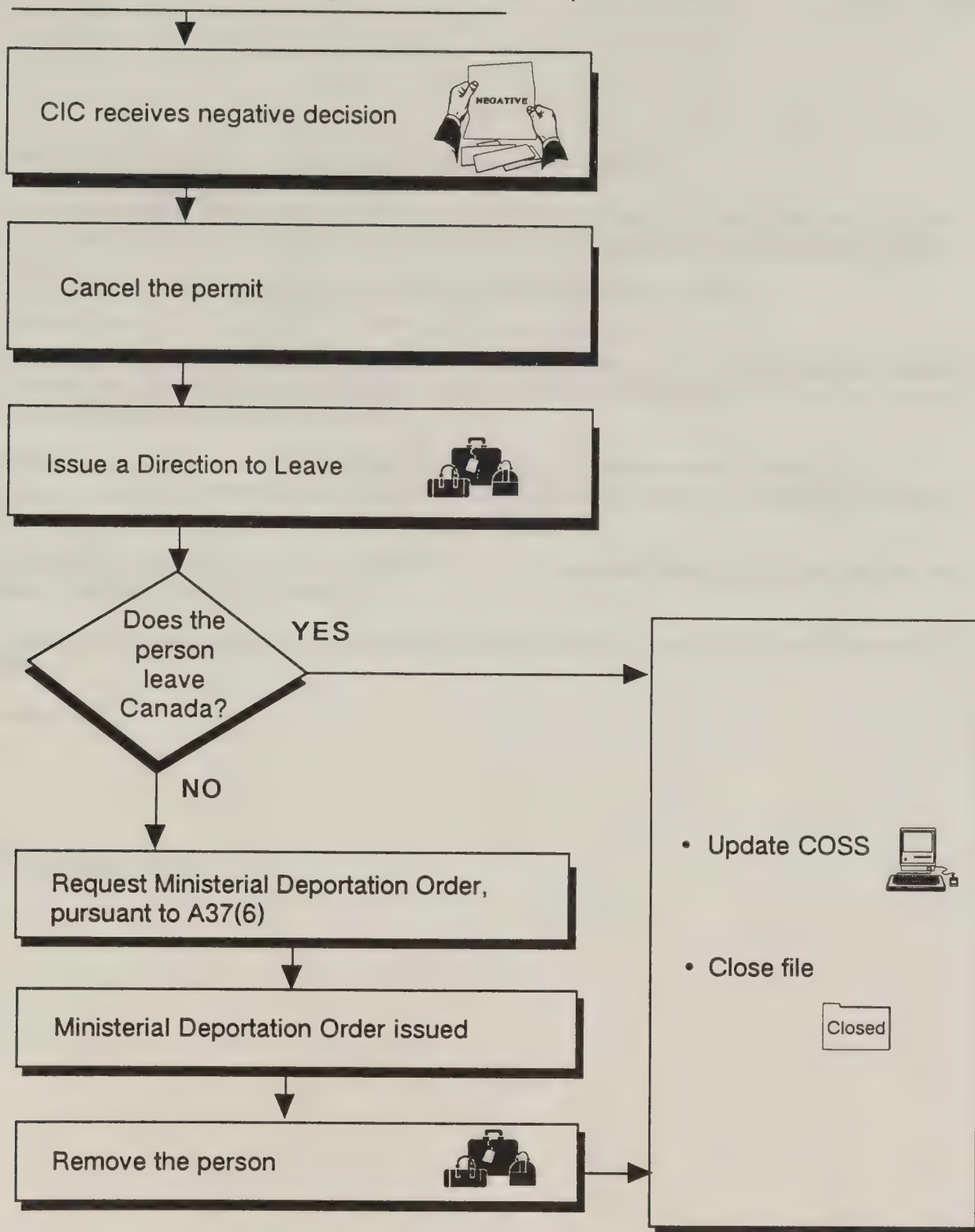


Flowchart--Removal after negative final H&C - Groups 1, 3, 4



Flowchart--Removal after negative final H&C - Group 2

Group 2 with no outstanding removal order or departure notice



L1: Letter - Cancellation of Minister's permit and Direction to leave Canada

Dear

This refers to your immigration status in Canada. Please read it carefully.

Attached is a pre-removal review decision which states the Minister has determined there are insufficient humanitarian and compassionate grounds to accept and process an application for permanent residence.

This is to advise you that the Minister has cancelled your Minister's Permit issued on _____ valid to _____.

Pursuant to subsection 37 (5) of the Immigration Act the Minister may, on the cancellation or expiration of a permit, make a removal order against the person to whom the permit was issued or direct that person to leave Canada within a specified period of time.

This is a direction to leave Canada. You should now make arrangements to leave Canada by _____. Failure to do so could result in the Minister making a deportation order against you.

As it is necessary that we verify your departure from Canada, you should report to the Immigration Office at the port of your departure from Canada.

If you change your address between now and the date you are leaving Canada please advise this office immediately.

Yours sincerely,

Manager
Canada Immigration Centre

L2: Pre-removal H&C Negative

This refers to your pre-removal humanitarian and compassionate review by the Minister's delegate.

Your case has been reviewed, and it has been determined that there are insufficient humanitarian and compassionate grounds upon which to allow you to apply for permanent residence in Canada. Since you are the subject of a (removal order or departure notice) you should report to _____ on _____ in order that we can make arrangements for your (removal or departure) from Canada.

As it is necessary that we verify your departure from Canada, you should report to the Immigration Office at the port of your departure from Canada.

If you change your address, please advise this office immediately.

Yours sincerely,

Manager
Canada Immigration Centre

Dependants

Table of Contents

	Page #
Dependants	286
Dependants joining a backlog member.....	287
What if the dependant's claim is found to have a credible basis?.....	288
How to process dependent children under 18 years of age	289
Priority Processing abroad of dependants of backlog claimants.....	290
What factors does the visa officer consider?.....	291
Spare.....	292
Spare.....	293
Spare.....	294
M1: Spare.....	295
M2: Spare.....	296
M3: Spare.....	297

Dependants joining a backlog member

Introduction This section describes the procedures for handling dependants who arrived in Canada on or after January 1, 1989 to join persons in the backlog. These procedures were developed to ensure that the family unit remains together.

Definition For a member of the Refugee Claimants Designated Class, the term, Dependant, refers to any of the following who is in Canada on the day the member makes an application for landing:

- i) the spouse of that person
- ii) any unmarried son or daughter of that person or of the spouse of that person
- iii) any unmarried son or daughter of a son or daughter referred to in sub-paragraph (ii)

Summary This table lists three situations involving dependants of backlog members and the procedures which apply in all three situations.

SITUATION	PROCEDURE
<ul style="list-style-type: none">the dependant is reported at a port of entry OR <ul style="list-style-type: none">the dependant is reported under A27(2) OR <ul style="list-style-type: none">the dependant is arrested	<ul style="list-style-type: none">process the dependant under the new legislationin cases where a Departure Notice or Removal Order is issued:<ul style="list-style-type: none">if the dependant is a criminal or a security risk, carry out the removal orderif not, defer execution of the removal order until a decision has been made regarding the backlog membergive the backlog member priority processing:<ul style="list-style-type: none">if the backlog member's claim is found credible, process the person towards landing under the RCDC Regulations, with the dependant; make sure the dependant carries out any removal order before landingif the backlog member fails all reviews and appeals, then the dependant and the backlog member are removed together

Preview There are special procedures for handling dependent children under 18 years of age. These procedures are outlined on a later page.

Related Pages How to process dependent children under 18 years of age, p. 289

What if the dependant's claim is found to have a credible basis?

Description

Dependants whose claims are found to have a credible basis are entitled to a full CRDD hearing.

The Immigration and Refugee Board has agreed to schedule the full hearing to the deferred date of January 1, 1992.

Backlog CICs can expect to be notified by the originating CIC that a claimant is dependant upon a Backlog member. The Backlog member is to be processed on a priority basis.

The IRB will send a reminder notice to the Backlog office advising that the CRDD has delayed the hearing of the dependant's case. The notice will advise the Backlog CIC of the dependants' name and file number. It will also ask for notice of the disposition of the Backlog member's claim at the earliest possible date.

Summary Table

This table outlines the possible consequences of the processing of a Backlog member.

IF...	THEN...
the backlog member's claim is found to have a credible basis	<ul style="list-style-type: none">• he or she is processed toward landing under the RCDC Regulations• when the dependants are landed, give them the opportunity to withdraw their Convention refugee claims• send a completed notice of withdrawal to the Board so that the dependant's file can be closed
the backlog member's claim is found not to have a credible basis	<ul style="list-style-type: none">• notify the IRB immediately, so that the dependants' claims can be rescheduled for the earliest possible date• defer removal• the dependants proceed to a full CRDD hearing

Facts

After the dependants' Convention Refugee claims have been determined, the CRDD will immediately advise the Backlog CIC of the final decision.

These claimants, who are being processed under the new legislation, will receive notices from the IRB advising them of the next steps in the refugee determination process.

Related Pages

How to process dependent children under 18 years of age

Summary Table

This table outlines the procedures for processing dependent children under 18 years of age who arrive in Canada, unaccompanied by their mother or father, to join a backlog member.

IF the child...	THEN the Immigration Officer must...
<ul style="list-style-type: none">intends to make a claim on his or her own	<ul style="list-style-type: none">report the child pursuant to section 20 of the Immigration Actfollow the usual procedures for dealing with minors
<ul style="list-style-type: none">does not intend to make a claim on his or her own	<ul style="list-style-type: none">report the child pursuant to section 20 of the Immigration Actallow the child forward on a bond to report when asked to do so; the child then joins the backlog membergive the backlog member priority processing

Related Pages

Priority Processing abroad of dependants of backlog claimants

Introduction CICs may be asked for urgent processing by persons in the backlog stating that their dependants abroad are in life-threatening situations. Dependants include spouses and unmarried children of any age.

Rule

- Priority processing will be given to cases of:
 - serious threats to the dependant's personal safety
 - children who are abused or who have no one to care for them.
- Priority processing is an exceptional procedure. Carefully assess the details of the information provided before determining whether to telex an area visa office abroad.

Summary Table This table describes how a priority processing request is handled.

PERSON	DESCRIPTION
CIC officer	<ul style="list-style-type: none">• record:<ul style="list-style-type: none">• the details of the situation• basic data about the dependant• any other identifying information• the status of the backlog claimant• prepare a telex:<ul style="list-style-type: none">• print OM IS 410 at the beginning of the subject line followed by the full name and date of birth of the head of the family• include a. telephone number for the dependant• telex the information to the appropriate post with a copy to Enforcement Branch, NHQ Attention: Backlog Clearance
Backlog member	Advise the dependant to contact a visa office or, if there is no visa office, an office of the UNHCR.
Visa officer	Assess the situation and determine if the case merits priority processing. If a review of the situation indicates that the dependant's case should be <ul style="list-style-type: none">• prioritized based on its own merits, telex this decision to the CIC with a copy to Enforcement Branch, NHQ, Attention: Backlog Clearance.• facilitated by means of a Minister's Permit, code the Permit "visitor", as there is no guarantee that the claimant will be landed

Related Pages

What factors does the visa officer consider?

Description

- The fact that the dependant has a relative in Canada in the backlog should not be the deciding factor in the visa officer's decision.
 - If the visa officer decides that there is a need to assist the dependant, the seriousness of the situation must be evaluated:
 - how urgent is the dependant's situation?
 - at what stage is the backlog person's case?
 - should the dependant be facilitated by a Minister's Permit?
 - if the backlog person's case has received a positive decision, should the dependant be processed via sponsorship?
-

Rule

If the dependant's life is in danger, the case is processed on its own merits, regardless of the status of the person in Canada.

Facts

- Visa officers will provide interim status reports by telex to CICs, with a copy to the Backlog Clearance, Enforcement Branch, NHQ. The status reports outline:
 - the date contact is established
 - the date for interview
 - the date the interview is completed
 - the date a Minister's Permit is issued, or the date it is determined that the priority processing criteria are **not** met
 - If the case does **not** meet the criteria for priority processing, then the person in the backlog will have to sponsor the dependant according to the usual procedures. If there will be a lengthy delay in the landing, for example, more than three months after the finding of a credible basis, the CIC officer should telex the details of the proposed sponsorship to the appropriate post so that the processing of the dependants can be initiated. Once the person in Canada is landed and can legally sponsor the dependant abroad, visas can then be issued quickly.
-

Related Pages



1. The first part of the paper discusses the importance of the study of the history of the United States. It is argued that the study of history is essential for a full understanding of the present and for the development of a sense of national identity. The author also discusses the role of the federal government in the development of the country and the importance of the Constitution.

2. The second part of the paper discusses the role of the federal government in the development of the country. It is argued that the federal government has played a central role in the development of the country and that its actions have shaped the nation's history. The author also discusses the importance of the Constitution and the role of the federal government in the development of the country.

3. The third part of the paper discusses the role of the federal government in the development of the country. It is argued that the federal government has played a central role in the development of the country and that its actions have shaped the nation's history. The author also discusses the importance of the Constitution and the role of the federal government in the development of the country.

